



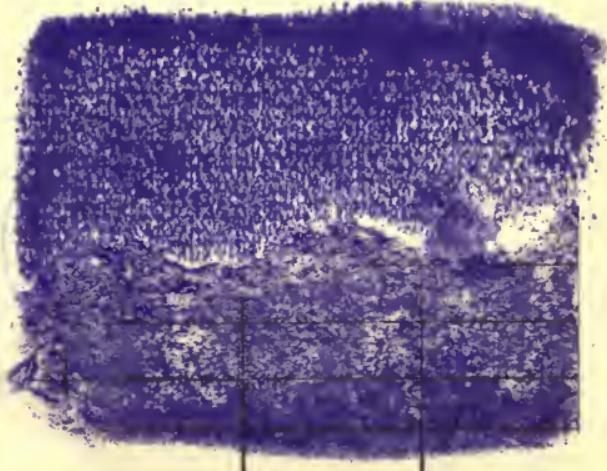
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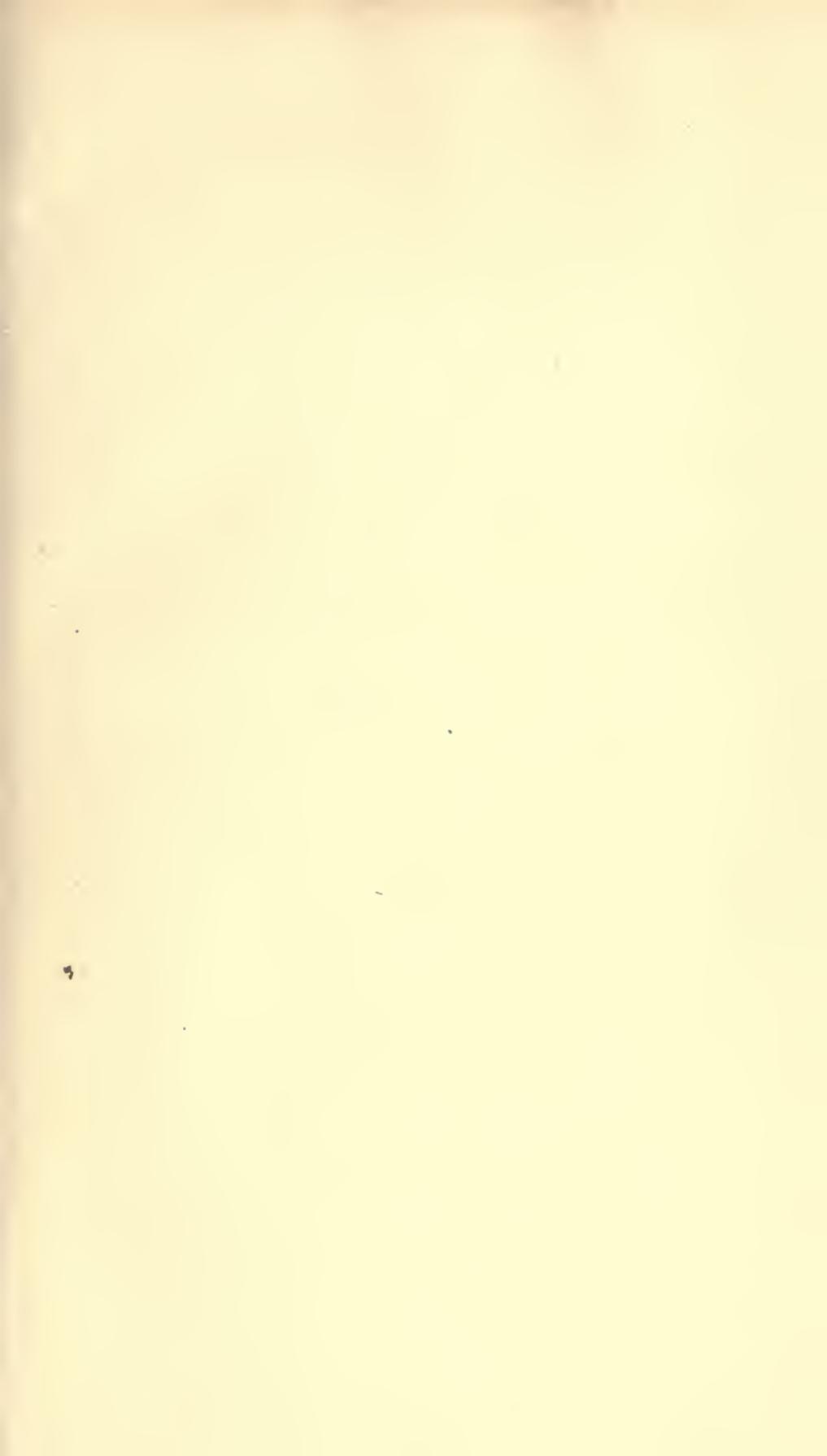
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**THE LEGAL STATUS OF THE  
CITY SCHOOL SUPERINTENDENT**



# THE LEGAL STATUS OF THE CITY SCHOOL SUPERINTENDENT

By

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J. C. M.

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## CHAPTER I THE PROBLEM

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The 1918 census report of Financial Statistics of Cities stated that the 227 cities above 30,000 population contained 34,000,000 people or 32.9 per cent. of the estimated population of the country. The same report also stated that 31.4 per cent. of the entire expenditure of this group of cities was for schools. That this was a considerable increase over the preceding decade is indicated in the following figures:

	1907	1911	1915	1918
Per cent. of total city expense				
devoted to schools.....	27.7	28.6	30.2	31.4
Cost of Schools per capita....	\$4.42	\$5.04	\$5.58	\$6.28

If in addition to the 227 cities mentioned above, the expenditure for schools made by the 1,200 odd cities with population of from 5,000 to 30,000 is taken into consideration, the immensity of the problem of city school administration, merely from the business standpoint, becomes apparent. The widespread demand for better qualified teachers, for better school buildings and equipment, and for better exercise by the school authorities of nearly all functions that have been delegated to the schools promise that the cost of schools will not diminish, but will of necessity considerably increase during the next several years.

Under the stress of changing economic and social conditions the American people are exceedingly interested not only in the expenditure of money for schools but

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particularly in the results that are and will be obtained. As taxes increase and, as an ever larger proportion of expenditure goes for school purposes, the pressure on school administrative officials will increase and the demand for better results will be greater and oft times unreasoning. Accompanying this pressure and unrest will come a demand for change, for the trying of many and varied experiments—all of which will be merely outward signs of an underlying sense of need for such a reorganization of the school administrative machinery as will definitely fix responsibility and so produce the most and best returns on the investment. On those responsible for the administration of schools will largely fall the problem of reorganization.

Today the typical American city school system is controlled by a board of education, elected by the people: the board appoints an executive or administrative officer, the superintendent, who is largely or altogether subject to the will of the board. From this general type there are many variations—all of them results of the operation of certain different but fundamental theories relative to city school administration.

The first of these theories is in some sense a development from the spirit of the New England town meeting. In a present day and professionalized terminology it is embodied in the theory of "municipal home rule." In the educational field, it practically considers the city district as the chief if not sole authority over all questions concerning the local administration of schools. It assumes that the powers of administration are derived from the electorate and should be legally vested in officers whom the electorate may reach with their ballots. The logical sequence of this theory is that the executive head of the school should be an employee of the board of education with only such powers and duties as the board

may delegate to him; and with the privilege of exercising such powers and performing such duties only in so long as it may suit the pleasure of the board.

An entirely different theory stresses the fact that education is a function of the State; and that, therefore, the State should make such provision for the local administration of schools as will best promote the interests of the State. It considers the city superintendent an official of the State, responsible for the administration of schools in a convenient subdivision of the larger unit. The centralized authority determines the qualifications necessary for the office, appoints and removes the individual official, pays his salary and supervises or directs his activities while in office. This theory, when it grants the local community any voice at all in the conduct of its local school affairs, either delegates certain specific functions to certain civil authorities of the city, or creates a local board of education which operates primarily in an advisory capacity.

Between these two theories, there is developing a third theory that attempts to coordinate the essential features of them both. It recognizes the value of local initiative and local responsibility; it believes that the people of a city should be made to feel responsible for producing a school system superior to the minimum that the State can require; and that to secure the full value of this local initiative the city must have a large control through its elective officials of the administration of its schools. On the other hand this theory recognizes the right of the people of a State to establish minimum requirements for the good of all the children; and it denies the right of a local community to fall below these minimum standards. It recognizes the ever-increasing complexity of a modern city school system and the need of professionally trained

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leadership in the administration of such school systems. To secure such leadership, this theory accepts the right of the State to determine the qualifications necessary for filling the local office, to pass upon the fitness of the individual for that office, to specify certain of his duties while in office, to supervise many of his activities and to protect in some measure his tenure during the term of his contract. Outside of these specified limits the locally elected or appointed board has full control of local affairs.

It is with an examination and evaluation of these three fundamental theories in their application to city school administration that this study is concerned. Their expression in the law admits of varied and complicated relationships—the relationships of public and board of education; board of education and other civil authorities; board of education and superintendent; superintendent and other executive officers; executive officers and teachers; board of education and superintendent to State authorities, and so on. While it is necessary to consider all of these problems in searching for the best legal organization of city school administration, it is the superintendent and board of education that the American people will hold responsible for satisfactory returns from their investment in the public schools. The relationship between these two agents of the people and their specific responsibilities in the law, then, constitute the problem for this study.

The conclusions reached should result from consideration of the historical development of the problem, of the school laws now in force as set forth in state codes and city charters, of the principles and practices that have evolved in municipal administration, and of the best judgment of lay and professional leaders in school administration.

## CHAPTER II

### THE HISTORICAL DEVELOPMENT OF THE OFFICE OF CITY SCHOOL SUPERINTENDENT

The city school superintendent is a product of many experiments. A pioneer people were confronted with the building of an educational system. At every turn they felt the need of improving their school facilities, and of having some agency in each governmental unit that they might hold responsible for bringing about such improvement. Certain ideas were gleaned through their leaders<sup>1</sup> from the educational systems of the parent lands, and, for the rest, they used whatever agency seemed best suited to their purpose. After a century or more of trial and error, of conflict between ideals as widely contrasted as the highly centralized educational system of France and the New England town meeting, there has been crystallized the office of city school superintendent which is fairly definite in its concept, and common to the educational systems in all the states.

Since the development of the office in Connecticut and in Ohio has been typical in a large measure of its development throughout the country, the school legislation of these two states is taken as the basis of this chapter. Ohio through its mass and variety of special, city charter legislation from 1829 to about 1870 and again under the guise of legislation for grades of cities from 1875 to 1904 seems to have tried in some city or another nearly every type of school administration that the American

<sup>1</sup>Hoyt & Ford, *Life of John D. Pierce*, pages 81-82.  
Barnard, *The Old Hartford Grammar School*, page 233.

mind has conceived; and as a result of such experimentation has from time to time reduced the principles thus tried to general legislation applicable to all of its cities.

Connecticut, in some sense, the co-parent of the free public school system of America, through one hundred fifty years of experiment, evolved the concept of public duty and responsibility embodied in the office of *school visitor*, an office that has gradually developed through another century into that of city school superintendent.

#### CONNECTICUT GENERAL SCHOOL LEGISLATION

In 1650 the General Court of the colony of Connecticut enacted a "body of laws." Among the provisions for education is to be found the following:

For as much as the good education of children is of singular behoof and benefit to any commonwealth and whereas many parents and masters are too indulgent and negligent of their duty in that kind:

It is therefore ordered by this court and the authority thereof, that the selectmen of every town in the several precincts and quarters where they dwell, shall have a vigilant eye over their brethren and neighbors, to see, first, that none of them shall suffer so much barbarism in any of their families, as not to endeavor to teach, by themselves or others, their children and apprentices so much learning as may enable them perfectly to read the English tongue and knowledge of the capital laws,

.....  
Apparently in this early day, those who framed the law realized the need of having some one responsible for seeing that the law should be enforced. This responsibility was given to the selectmen of the "several precincts and quarters;" and further provisions of the law gave the selectmen ample authority to examine the children and to enforce the law. The actual result of the above provi-

<sup>1</sup>Barnard, *Old Hartford School*, p. 171..

sion of the 1650 code may be surmised from the following, enacted in 1690:

This court observing that, notwithstanding the former orders made for the education of children and servants, there are many persons unable to read the English tongue, and thereby unable to read the holy word of God and the good laws of this colony, it is hereby ordained that all parents and masters shall cause their children and servants, as they are capable, to read distinctly the English tongue, and that the grandjurymen in each town do, once in a year, at least, visit each family they suspect to neglect this order, and satisfy themselves that all children under age, and servants in such suspected families, can read well the English tongue or in good procedure to learn the same or not, and if they find any such children or servants not taught as their years are capable of, they shall return the names of the parents or masters of the said children, to the next county court, when the said parents or masters shall be fined twenty shillings for each child or servant whose teaching is thus neglected according to this order.<sup>1</sup>

Here again, the colonial legislature reiterated the right of the State to enforce the education of the children of the State; but, having become dissatisfied with the results obtained by the selectmen in their forty years trial, placed the responsibility for the local administration or supervision of the law in the hands of the grandjurymen.

A third scheme for placing responsibility for the oversight of schools is indicated in an act of the court in 1690:

This court considering the necessary and great advantage of good literature, *do order and appoint* that there shall be two good free schools kept and maintained in this colony for the schooling of all such children as shall come there after they can distinctly read the psalter, to be taught reading, writing, arith-

<sup>1</sup>Barnard, *Old Hartford School*, p. 171.

metic, the Latin and English languages—the one at Hartford and the other at New Haven—the masters whereof shall be chosen by the magistrates and ministers of the said counties, and shall be inspected and displaced by them if they see cause. . . . .

What seems to have been the forerunner of the board of education is suggested in the appointment of a committee by vote of the town of Hartford in 1664. This committee was to be responsible for the administration of a portion of an estate bequeathed by Governor Hopkins for school purposes. The record of the vote reads that the committee "are desired and empowered to employ that said sume—according to such instructions as shall be given them by this town or for want of, according to their own discretions."<sup>1</sup>

Apparently the sole duty of this committee was the administration of the estate, or the business interests of the school fund. As late as 1749 the committee was mentioned in the record of the town as the "school committee," but the record quoted gives no intimation that the committee had any authority except as to the administration of the proceeds of the estate bequeathed nearly a hundred years before, and of such other funds as had been added.

In 1753 the so-called *Free School* was changed to a Grammar School, a committee was appointed "to take into their hands and care, the said lands and moneys and all the interests appertaining to the said school, and apply the profits and incomes from the same to the setting up, maintaining and supporting of a *Grammar School* as aforesaid; and the said committee are to have and take the care, charge, and oversight of the said *Grammar School*, and make and give such general orders as

<sup>1</sup>Barnard, *Old Hartford School*, p. 187.

<sup>2</sup>Ibid., p. 176.

they shall think best for the well ordering and managing said school.”<sup>2</sup>

In the above statement we see probably the first attempt to make a committee or board elected by the people of the community responsible for the “care, charge, and oversight” of all the interests of the school. Judging from the records quoted by Mr. Barnard, this was a period when the people of Hartford were desirous of improving their school, and their attempts toward improvement were marked by their placing greater responsibility on their school committee. The following record expresses very clearly the relationship that the people intended should exist between their committee and the “master or masters” of their school.

1765, Dec. 30—it is therefore voted that George Willys, Samuel Talcott, and William Pitkin, Jr., Esqs., or the major part of them, be and they are hereby appointed a committee in the room of the former committee, to hire a schoolmaster, and to take into their care all the interests, moneys, and securities belonging to said school, and to manage, regulate and order the same for the best advantage thereof. That the said committee for the time being, do give written instructions to the master or masters that shall be employed to keep or teach in said school with regard to the rules he shall observe:—The method of teaching and admitting of scholars into the same; and it is especially recommended that such masters be instructed to take due care of the morals, as well as of the learning of the scholars.....<sup>1</sup>

In 1766 this school committee was increased to six members and enjoined to “devise some method for the better regulating of the Grammar School, and lay the same before the next meeting of the town in order for

<sup>1</sup>Barnard, *Old Hartford School*, p. 191.

<sup>2</sup>Barnard, *Old Hartford School*, p. 190.

their approbation." A year later the committee reported it as their "opinion, that the following things and regulations are still further necessary in order to the promoting and advancing good literature and the interests belonging to said school,....."

The first four recommendations concerned the business or financial interests of the districts. The remainder of the recommendations are of peculiar interest in that they show the need felt by the committee for a more thorough oversight of the instructional activities of the school, and of the relation between the instructional activity and suitable building accommodations.<sup>1</sup> The fifth and sixth clauses follow:—

Fifth—That said committee, as soon as may be, use their utmost endeavors to obtain some meet person, duly qualified to undertake the keeping of said *school*, and to settle therein; and for that purpose, if need be, to make such alterations, or erect and make such additions to the buildings belonging to said school as will best serve and promote the good ends and designs of the same.

Sixth—That said committee, from time to time, give directions and prescribe rules to the master for the well ordering of said *school*; that they inspect and visit the same at least every quarter of each year, and hear and attend the exercises and performance of the youths belonging to said *school*, on said quarter days, and desire some or all the ministers of said town for the time being, to visit, assist, advise, and consult the best measures for the advancement of good literature in said school; and said committee, or the major part of them, do determine concerning the admission and number of scholars proper for said school. ....

In 1789 the committee was reorganized by adding the pastors of the several churches in Hartford.<sup>2</sup> In the

<sup>1</sup>Barnard, *Old Hartford School*, p. 192.

<sup>2</sup>Barnard, *Old Hartford School*, p. 193.

record of the first meeting of the reorganized committee we have a beginning of what is now known as the committee system of school board organization. One committee of three was appointed to examine the funds, accounts, and securities, to take such measures as might be necessary and to report back to the board. A second committee was "to digest a system of Rules and Regulations for the government of said school, and lay the same before said trustees at their next meeting." The third committee was "to examine candidates" for admission, and for "examining S<sup>d</sup> school monthly." At this same meeting, the board selected a chairman, register, and treasurer. The records of the board give account of two examinations. The report of the committee on rules and regulations was made and adopted January 6th, 1790. In 1798 the Board of Trustees was incorporated by the General Assembly "under the name of the Trustees of the Grammar School in the town of Hartford."

About this time (1795) the schools of the State were given over to ecclesiastical societies known as School Societies; and the general assembly created a new group of officers whose sole official responsibility was the welfare of the schools. The outstanding feature of this legislative action was the creation in each school society of a board of school visitors. The effect of this change of responsibility for the administration of schools is described in the following extract from Mr. Barnard's report to the Board of Common Schools in 1842.

Prior to 1798, these powers and duties devolved on the civil authority and select-men of each town, but in the revision of the school law, in that year, they were transferred to a distinct class of officers, denominated visitors, or overseers of schools, elected by each society, and charged exclusively with them. This

change proved highly advantageous, for some time, but from the want of a more specific enumeration, and some modification of their powers, to adapt them to the altered circumstances of the schools, and of society, the great object of their appointment from year to year in a measure failed. When first appointed, the common school was the main reliance of all classes, for the elementary education of children, and there was, therefore, connected with the discharge of their duties, strong parental, as well as the ordinary official, and benevolent interest. The number of districts were not as large, the schools were kept for only one portion of the year, and the same teachers continued in the employment and in the same district, for a longer time; a change in these particulars has more than doubled the demands on the time and attention of school visitors..... Formerly there was a high degree of public consideration attached to this office, as well as a lively interest in all that concerned the administration of the school system. The result of the whole was ascertained to be, that the mode of discharging the duties of inspection and superintendence, which is the very life of a school system, and determines, in a great measure, the character of the schools, was inefficient, irregular, and formal at best. To remedy these defects and irregularities, the powers and duties of school visitors are more distinctly defined in the act of 1839.

First—They may prescribe rules and regulations respecting the studies, books, classification and discipline of the schools.

Secondly—They must withhold a certificate from such persons as are not found qualified to teach certain specified branches, and annul the certificates of such as shall prove, on trial, to be unqualified and unfaithful.....

Thirdly—They must visit all the common schools at least twice during each season of schooling.

One of these visits must be made near the beginning of the term, and the other near the close, so that a right direction can be given to the school, and the final progress be judged of.....

Fourthly—They can appoint a committee of one or two persons, to exercise all the powers, and perform all the duties of the whole board, under their advice and direction, and receive one dollar a day for the time actually employed .....

Fifthly—They must prepare, when required by this Board, and annually for their several societies, a written report as to the condition of the schools, and plans and suggestions for their improvement.....<sup>1</sup>

In 1840 Mr. Barnard became a member of the Board of School Visitors of Hartford and prepared a plan for the reorganization of the school districts of that city. In the third clause of the plan he stated clearly what he believed to be the proper organization and duties of the board of education and superintendent.

The studies, books, discipline and supervision of the schools, and the management of the property and concerns of the district, are to be intrusted to a Board, two-thirds of whom shall be elected annually, and the other third hold over. It is also proposed, for the purpose of giving efficiency to the action of the Board, that they elect a superintendent who shall visit the schools, employ the teachers, meet with them for instruction, visit the parents and guardians of such children as are not sent to school at all, or attend irregularly, see to the repairs and management of the schoolhouses; in fine, to devote his whole time to the prosperity of the schools.<sup>2</sup>

The plan was not adopted in Hartford; but it was the essence of the scheme for city school organization which was widely advocated by Mr. Barnard in his

<sup>1</sup>*Fourth Annual Report of the Board of Commissioners of Common Schools in Connecticut, Hartford, 1842.* pp. 43-47.

<sup>2</sup>Barnard, *Old Hartford School*, p. 240.

writings and public addresses. It is of interest to us now because its principal features were later written into the laws of many states and particularly into special city charters. In 1871 Mr. Barnard wrote:

I have lived long enough to see clearly all the cardinal features of city and State school organization advocated in this city from 1838 to 1842, and denounced "as the impracticable schemes of an enthusiast," ingrafted into the constitutions of fifteen States, and the school systems of thirty-five States, and upwards of one hundred cities including all having over forty thousand inhabitants, and many more with a smaller population.<sup>2</sup>

The following extracts are taken directly from the revised "Act concerning Common Schools" of 1841: they show the provision made by the General Assembly for the local administration and supervision of schools.

#### SCHOOL LAWS, CONN. 1841.

*Page 4, Section 3.* Every school society at the annual meeting shall choose a clerk, a school committee of one or three persons, a board of school visitors, not exceeding nine persons, a treasurer and a collector, who shall hold their respective offices until the next annual meeting, and until others are chosen or appointed.

*Page 5, Section 5.* The school committee shall have the care and management of any property or funds belonging to the society, and shall lodge all bonds, leases, notes and other securities, with the treasurer, except so far as the same has been, or shall be, entrusted to others by the donor or grantor, or by the General Assembly, or by the society.

They shall pay to the treasurer all money which they may collect and receive for the use of schools;

They shall settle and describe the boundary lines of any new school district, or of any existing district, or

<sup>2</sup>Barnard, *Old Hartford School*, p. 241.

parts of a district within their limits, where the lines are not now settled and described, when applied to by the district, and shall cause the same to be entered on the records of the society.

They shall designate the time, place, and object of holding the first meeting of any new district;

They shall give due notice of all meetings of the society;

They shall make return of the number of persons over four, and under sixteen years of age in said society, to the Comptroller, and draw orders on the same for any portion of public money due to said society, as hereinafter prescribed;

They shall draw all orders on the treasurer of the society, and perform all other lawful acts which may be required of them by society, or which may be necessary to carry into full effect the powers of the school societies.

*Pages 6 and 7, Section 8.* The Board of Visitors shall prescribe rules and regulations for the management, studies, books, classification and discipline of the schools in the society;

Shall themselves, or by a committee, by them appointed for this purpose, examine all candidates as teachers in the common schools of such society, and shall give to those persons with whose moral character, literary attainments, and ability to teach they are satisfied, a certificate setting forth the branches he or she is capable of teaching: Provided, that no certificate shall be given to any person not found qualified to teach reading, writing, arithmetic and grammar thoroughly, and the rudiments of geography and history;

Shall visit all the common schools of said society twice at least during each season for schooling, once within four weeks after the opening, and again within four weeks preceding the close of the school, at which visits they shall examine the register of the teacher, and other matters touching the schoolhouse, library,

studies, discipline, mode of teaching, and improvement of the school;

Shall annul by a major vote of said visitors, the certificates of such teachers as shall be found unqualified, or who will not conform to the law and the regulations adopted by the visitors;

Shall make out returns of the condition of each common school within their limits, in such particulars, and at such time, as the board of commissioners of common schools may specify and direct;

And shall submit to the society at their annual meeting a written account of their own doings, and of the condition of the several schools within their limits for the year preceding.

The board of visitors may appoint a committee of one or two persons, to exercise all the powers, and perform all the duties of said visitor, subject to their rules and regulations; and such committee shall receive one dollar each per day for the time actually employed in performing said duties, and such other compensation as the society may direct, to be paid out of the income of the town deposit fund, or in any other way which said society may provide.

The foregoing extracts mark three distinct phases in the development of the law concerning local school administration: (1) a dual control, with a school committee responsible for the financial or physical aspects of school affairs and a board of school visitors responsible for the instructional activities; (2) a detailed enumeration of the powers and duties of both the committee and board; and (3) a greater emphasis upon certification of teachers and supervision. The law was a forward step and was subject to much opposition during the next decade; but the agitation for better school laws continued and in 1855 the General Assembly directed the Trustees of the State Normal School "to appoint a Com-

mittee of three from their number to consider, during the recess of the General Assembly, the existing School Laws, with a view to their revision and simplification. . .”<sup>1</sup>

This committee prepared a draft of a revised law and submitted it to School Visitors and other friends of education throughout the state for their criticism. Among other things, they recommended that the management of the school affairs be restored again to the towns; that a board of three, six or nine school visitors be elected to hold office three years, one-third being elected each year; that this board perform all the duties heretofore performed by the School Committee and Board of Visitors; that the board elect an Acting Visitor or Town Superintendent; and that teachers should be examined by a majority of the Board or by the town superintendent.

They further suggested the desirability of permitting the Board of Visitors to elect one outside their own number “even a non-resident of the town” as superintendent.

This proposed revision of the school law resulted in a new series of school legislation beginning with the Act of 1856 which transferred to Towns the duties and powers of School Societies with regard to schools.<sup>2</sup> The school committee of certain districts organized under the Act of 1855 was changed to a “board of education consisting of three, six or nine persons.”<sup>3</sup> To this board was delegated most of the powers which to that time had belonged to the board of visitors. Three years later the law was amended to give the board of education *all* the powers and duties belonging to the boards of school visitors,<sup>4</sup> one of which was the “full power to appoint an

<sup>1</sup>*Circular concerning Alterations in the School Laws to School Visitors and Others, 1856.*

<sup>2</sup>*Public Acts relating to Common Schools in force in the State of Conn. 1860.*

<sup>3</sup>*Ibid. “17 Sec. 10,” p. 10.*

<sup>4</sup>*Ibid. 1858, 21, Sec. 1, p. 12.*

acting school visitor in said district, who shall possess within said district all the powers, and be subject to all the duties by law possessed by and imposed upon similar officers appointed by the board of school visitors of the several towns."<sup>6</sup> The powers and duties of the board of school visitors were restricted to the "remaining portion of said town."<sup>7</sup> However, for those towns which were single districts or which had school obligations outside of special districts within their borders there was a sharp division of authority—roughly speaking, all responsibility for instructional activity was lodged in the board of school visitors, and the care and management of any property or funds "was vested in the town selectmen."

A redraft of the law in 1860 sets forth the dual responsibility for school supervision very clearly and is of peculiar interest because it defines more definitely the duties of the acting school visitor of the town. The law provided that any town which included ten or more school districts within its limits might "appoint a sub-committee of one or more persons, of their number, to visit the schools." The duties of this sub-committee were defined thus:

It shall be the duty of the acting school visitor or visitors of every town, to visit every common school in said town in company with one of the visitors, or of the district committee, if such attendance can be obtained; and such visits shall be made twice at least during each session of schooling, in conformity with the provisions of this act. It shall be their duty, unless otherwise directed by the school visitors, to spend at least half a day in each school visit; it shall be his or their duty to make a full annual report of the condition of the common schools of said town and of all

<sup>6</sup>Ibid. 1858, 23, Sec. 3, p. 12.

<sup>7</sup>Ibid. 1858, 24. Sec. 4, p. 12.

<sup>8</sup>Ibid. Chap. 2, Sec. 1-6, 1858, pp. 13-14.

the important facts concerning the same, to the superintendent of common schools, on or before the first day of October, annually and to answer in writing all inquiries that may be propounded to him or them on the subject of common schools by said superintendent. He or they shall also prepare an abstract of such report, to be read at the annual meeting of the said town.<sup>1</sup>

For time actually employed the acting visitor or visitors were to receive "the sum of one dollar twenty-five cents each, per day," the payment of this sum subject to his making the report required by law and the report's being approved by the board of visitors. In this law we see a movement away from the extremely decentralized district system to the increasing responsibility of town supervision. In 1865 a law was passed providing that any town at any time might consolidate all the school districts within its borders into one district;<sup>2</sup> such consolidation depended upon a majority vote by a majority of the districts concerned. The next year this law was made mandatory.<sup>3</sup> These consolidated towns or union districts were required to elect "six, twelve, or eighteen male residents of the town as a school committee."<sup>4</sup> Under this law the committee had in general the powers and was required to perform the duties that previous to the passage of the law had "devolved upon district committees and boards of school visitors."<sup>5</sup> The law not only did away with the dual control of district committees and boards of visitors but it also gave the new union district committee power to "appoint one or more acting visitors or superintendent under their direction to examine teach-

<sup>1</sup>Laws of the State of Conn., 1860, p. 32, Par. 96, Sec. 3.

<sup>2</sup>Laws of the State of Conn. relating to Education, 1868, p. 24, Sec. 61-62.

<sup>3</sup>Ibid, p. 31, "1866, Sec. 1." (The following year this mandatory consolidation was repealed, 1867, Sec. 1.)

<sup>4</sup>Ibid, p. 31-32, "1866, Sec. 2."

<sup>5</sup>Ibid, p. 32, "1866, Sec. 3."

ers and visit schools." The old board of school visitors was gone; but the concept of their chief member "the acting visitor" remained, although, from now on he was to be permitted a new title and would ultimately be clothed with additional powers and greater responsibility. Such are the milestones in the slow but sure development of the legal machinery and underlying causal conceptions which lead to the better legal organization of school administration.

The laws of the next fifteen years indicate a backward trend of public sentiment toward the decentralization of towns into the old district organization. However, the permissive features of the law of 1866 remained with two slight exceptions. The question of consolidation or decentralization rested upon a majority vote of all the electors of the town,<sup>6</sup> and the term "superintendent" was omitted from the wording of the act as quoted above.

After a period of debate lasting twenty years the word "superintendent" again was written into the law—this time to stay—and with the additional provision that he might be "not one of their own number," i. e., one of the board or committee.<sup>1</sup> His salary was fixed at two dollars a day, each, for the time actually employed in the performance of their duties—and "such further compensation as their respective towns may fix at an annual meeting."<sup>2</sup>

The slowness with which old ideas disappear and new

<sup>6</sup>"Laws of the State of Conn. relating to Education, 1879." p. 21, also "1875, Sec. 1-2."

<sup>1</sup>Ibid, p. 22, "1875, Sec. 4."

<sup>2</sup>Laws of the State of Connecticut, 1886, page 1, chap. 39.

An Act Concerning Acting School Visitors.

Section 1. Boards of Education, town committees and board of school visitors may appoint a person, not one of their own number, to be acting school visitor or superintendent of schools.

Section 2. The acting school visitor or superintendent thus appointed shall have all powers, perform all the duties and receive the pay now prescribed by law for acting school visitors.

Section 3. Any town, at its annual town meeting, may fix the compensation of the acting school visitor or superintendent.

<sup>2</sup>Ibid, 1886. Sec. 13, p. 24.

concepts gain a place in the law is shown in Chapter 195, paragraph 1, of the Act of 1903 providing for "Supervision of Schools."

The town school committee or board of education or board of school visitors of any town may choose by ballot a superintendent of schools and may fix the salary and prescribe the duties of acting visitor as now prescribed by law. A majority vote of all the members of the committee or board shall be necessary to an election.<sup>3</sup>

And it is well in this connection to note the persistence of the idea written in the original law of 1856 and reiterated again in 1872 and 1888, namely, that the secretary of the board of school visitors should always be the acting visitor or one of the acting visitors.<sup>4</sup> Even in 1904 the election of a superintendent of schools was only permissive; and boards still had the privilege of making their secretary the acting school visitor.

But the law of 1903 definitely recognized the office of "superintendent" and did not make it synonymous with the term "acting visitor." The persistence of the old concept held over, however in that the superintendent's duties "shall always include the duties of acting visitor as now prescribed by law."

This law of 1903 marked two great steps in the development of the superintendency. First, it stated minimum requirements for eligibility to the office of superintendent and the right of the State to approve each candidate for

<sup>3</sup>Conn. School Document No. 3, 1904, Laws relating to Schools, Chap. 9, Sec. 115, p. 34.

<sup>4</sup>Laws of the State of Conn., 1856. Paragraph 103, page 31, Chap. 8. The secretary and other school visitors shall receive two dollars a day each while actually employed, and a like proportion for parts days, and such further compensation as their respective towns may fix at an annual meeting.

appointment.<sup>5</sup> Second, the law further recognized the State's interest in the proper local supervision of schools by providing for the creation of local "supervision districts" with superintendents approved by the State and drawing half (not to exceed eight hundred dollars per year) of their salary from the State. The same law extended this principle even further by providing that, when a local district employing not more than ten<sup>6</sup> teachers petitioned the state board of education the latter should be "authorized to appoint an agent who shall discharge the duties of superintendent and who shall be qualified as provided in Section 118," the State to pay three-quarters of his salary and the local district one-quarter.

It will be noted that the above law was permissive only and its operation rested on local initiative;<sup>7</sup> but in 1910 thirty-three towns had employed superintendents; twelve districts were operating under the provision for "supervision districts;" six towns with twenty to thirty teachers each were enjoying the same financial privileges from the State as the supervision districts (see Act of 1909, chapter 225, paragraph 2); and sixty-three towns employing less than twenty teachers each had supervising agents appointed by the State board of education. The State's interests in the local supervision of schools and its willingness to pay for the same had borne fruit. Six years of experience had convinced the people of Connecticut that they could secure better supervision of their schools through the help and control of their State educational authorities than they could through their locally

<sup>5</sup>Laws of 1904, page 35, section 118, chapter 9. Par. 118. No person shall be eligible for appointment under Paragraph 115 who has not had at least five years' successful experience as a teacher or superintendent, or who does not hold a certificate of approval by the state board of education

\*Conn. School Document No. 3, 1904. Laws Relating to Schools, p. 35, section 119, chapter 9.

\*Conn. School Document No. 10, 1910. Laws Relating to Schools, p. 46, 47, 48.

elected representatives and so in 1909 we find the State legislature passing the following mandatory legislation:

Every town which employs not more than thirty teachers and in which there is no superintendent of schools or supervision agent shall, at its first annual or biennial town meeting after January 1, 1910, vote by ballot to determine whether it will instruct its school visitors, town school committee, or board of education to employ a superintendent of schools or request the appointment of a supervising agent under the provision of this Act.<sup>2</sup>

Such was the result of more than two hundred fifty years of experience and thought in Connecticut as to the best means of administering the schools of the State.

#### OHIO GENERAL LEGISLATION

The first State Constitution of Ohio, 1802, devoted Article VIII to the cause of education. The first public school law was passed by the general assembly, January 22, 1821.<sup>3</sup> It permitted the people of each township to determine whether they would have free district schools. It provided for the election of a school committee of three householders in each district who were to serve for one year; and enumerated their powers and duties at some length. February 5, 1825, a second law was passed making it mandatory for the trustees of each township to divide the same into school districts. The duties of the school committee were practically the same as in the permissive law of 1821. The county court of common pleas was to appoint annually "three examiners of common schools, who, in addition to examining candidates for certificates, were clothed with the function of visiting the schools." This latter function was permissive only; and there is little evidence that the power was ever exer-

<sup>2</sup>Connecticut Laws of 1910, p. 48, Sec. 142. (Ch. 10.)

<sup>3</sup>Hinsdale "History of the Ohio School System, p. 132.

cised. "By the law of March 10, 1831, school directors (were) constituted a body politic and corporate,"<sup>4</sup> and a provision of the same law made the clerk of each school district responsible for taking annually a "list or enumeration in writing, of all the white youth in his district between the ages of four and twenty-one years" and for making a return of the same to the county auditor.

The office of state superintendent of common schools was created in 1837; and a new educational law<sup>5</sup> was passed March 7, 1838. This law recognized the need of better local supervision. "Every township clerk was made superintendent of common schools within his township, his duties included visiting all the schools annually, inspecting the teachers' records, observing the management and making suggestions to teachers, filling casual vacancies in boards of directors, assuming directors' functions himself when boards failed to serve, and taking the enumeration of school children, a task which had hitherto devolved upon the district clerk since 1831." The law also provided "that cities, incorporated towns, or boroughs shall constitute separate school districts wherein the electors shall choose either three directors from the district at large, or one from each sub-district." During the next decade, the law of 1838 was amended, at various times, lessening the power of the township superintendent and again increasing the power of the district directors: the term of directors was increased to three years, one being elected each year. Not until 1851 did the township clerk regain the standing as township superintendent of schools that was delegated to him under the Act of 1838.

The Act of February 21, 1849, provided for the better

<sup>4</sup>Hinsdale History of the Ohio School System.

<sup>5</sup>Ibid, pages 138-140.

regulation of schools in cities, incorporated towns and villages, "two thirds of whose inhabitants should petition the town council for its adoption."<sup>1</sup> It provided for the election of six school directors, two chosen annually for a term of three years. "The Act of 1849—seems to have given the municipal council no place at all in the system. The board of education was made the taxing authority; but it had to submit the question to the people and the rate of the tax was limited to four mills. A statement of finances and certain other matters had to be made public at each annual election."

In 1853 a new law brought about a modification of the township organization.<sup>2</sup> It provided for a township board of education consisting of a township clerk and the clerks of each of the sub-districts of the township. This township board could "appoint one of its members acting manager of schools for the township, with such duties as the board might prescribe with relation to the management and supervision of the different schools." He was to receive compensation for his services. This privilege of appointing "an acting manager" was likewise delegated to boards of cities and towns.<sup>3</sup> Such was the early effort of the State of Ohio to meet the needs for local supervision of schools. During the next twenty years Ohio had very little general legislation affecting the administration of schools in incorporated towns and cities.

The law of May 1, 1873, introduced the idea of classification of cities for purposes of school legislation.<sup>4</sup> All cities having a population of ten thousand or more by the census of 1870 were styled city districts of the first class. All cities of less than ten thousand were known

<sup>1</sup>Hinsdale H. O. S. S., pages 142-143.

<sup>2</sup>Ibid., 148-149, Ohio School Laws, 1865, p. 17-27.

<sup>3</sup>Ohio School Laws, 1865, pp. 81-82, Sec. LXVI.

<sup>4</sup>Hinsdale, H. O. S. S., pp. 151-152.

as city school districts of the second class.<sup>5</sup> The law also recognized village, special, and township districts. The latter included all territory outside of incorporated village or city districts and were made up of sub-districts. In cities of the second class the board was to consist of six members elected at large, except in those districts which had already organized with the board of three members, or who chose to adopt the scheme of ward membership—when they should elect one member from each ward.<sup>6</sup> This law made two other definite advances over previous legislation. It made the board of education free from the control of the municipal government by giving the board of education control over all school property<sup>7</sup> and by vesting in it the sole power of levying<sup>8</sup> local school taxes and controlling school finances. Here we first note in the Ohio general school law the right of the board to elect a clerk<sup>9</sup> who may not be a member of the board. Each board was explicitly empowered “to appoint a superintendent<sup>10</sup> and assistant superintendent of the schools, (and) a superintendent of buildings.” About this time the law begins to specify certain duties of the superintendent. He must give certain information<sup>11</sup> to the city board of examiners, keep<sup>12</sup> the records and report to the board “each year such matters as they deem important or necessary for information in regard to the management and conduct of the schools, and to make such suggestions and recommendations as they may deem advisable relative to methods of instruction, school management, or other matters of educational interest.” Here

<sup>5</sup>Ohio School Laws, 1880, pp. 5-7, sec. 3885-3892.

<sup>6</sup>Ibid, 1880, p. 9, chap. 3, sec. 3904-3907..

<sup>7</sup>Ibid, 1880, Chap. 7, pp. 45-48. Sec. 3971-3972.

<sup>8</sup>Ibid, 1880, p. 39, Sec. 3950-3960.

<sup>9</sup>Ibid, 1880, p. 49, Sec. 3980.

<sup>10</sup>Ibid, 1880, pp. 69-70, Sec. 4017.

<sup>11</sup>Ibid, 1880, p. 103, Sec. 4078.

<sup>12</sup>Ibid, 1880, p. 92-93, Sec. 4059.

too, in an opinion rendered by the State Commissioner of Common Schools we find the germ of a new principle of school legislation, viz., the responsibility for the exercise of a function differentiated between the board of education on the one hand and the superintendent and the teachers on the other. The opinion reads, "The General Course of Study shall be prescribed by the board of education, but the studies to be pursued and the lessons to be prepared by each pupil should be left to the teachers or superintendent."

The passage of the compulsory education law, April 25, 1890, marked a further step in the progress of general school legislation affecting the superintendency. First, in the city schools the superintendent was the only school officer entitled under the law to excuse a child of compulsory school age from school attendance, or to decide whether or not private instruction was satisfactory to legal requirements: any appeal from the superintendent's decision had to be taken to the probate judge whose decision was final.<sup>1</sup> Secondly, the superintendent was subject to a penalty under the law for non-enforcement of the provisions of the act.<sup>2</sup> During this same period a "temperance instruction law" was passed and the superintendent as a school official was held subject to a penalty for wilfully refusing or neglecting to provide for the enforcement of the act.<sup>3</sup>

The next legislation we note directly modifying the office of superintendency of schools was passed April 25, 1904. It did away with all classification and gradation of city school districts.<sup>4</sup> This law compromised the two

<sup>1</sup>Ohio State School Law, 1880, p. 73, Footnote to Sec. 4020.

<sup>2</sup>Ohio State School Law, 1900, pp. 145-147, (1422-1) Sec. 1, (4022-3) Sec. 3.

<sup>3</sup>Ibid, 1900, p. 152 (4022-11) Sec. 11.

<sup>4</sup>Ibid, 1900, p. 143 (4020-25) Sec. 3.

<sup>5</sup>Ohio School Law, 1904, p. 15, Sec. 3886.

<sup>6</sup>Ibid, p. 19, Sec. 3897.

schemes of school board representation<sup>6</sup> in that it provided that from two to seven members should be elected from the city at large; and that from two to thirty members should be elected one each from each sub-district. Within these limits each city was to decide the size of its board of education and to divide the city into sub-districts. The independence of the city school authorities from all other municipal authorities was maintained.<sup>7</sup> Under the law the board of education had "full power to appoint a superintendent of the public schools; . . . ; and, if deemed essential for the best interests of the schools. . . . . the board may, under proper rules and regulations, appoint a superintendent of buildings."<sup>8</sup> This latter official was known in the law, also as "a director of schools." His term was fixed at two years and his maximum salary was \$5000 per year. His powers and duties were enumerated at length. All of his official acts were subject to the approval and confirmation of the board. His only legal connection to the superintendent was a requirement that "the payroll for teachers, assistant teachers and supervisors shall be countersigned by the superintendent of instruction." Section 4017a of the law made it mandatory for each city board of education "to appoint a suitable person to act as superintendent of the public schools of the district."<sup>9</sup> His term was not to exceed five years. Upon the acceptance of his appointment, he was "thereby empowered to appoint, subject to the approval and confirmation of the Board, all the teachers," and he might "for cause suspend any person thus appointed until the board or a committee of the board may consider each suspension." A city board "upon a three-fourths vote of its

<sup>6</sup>Ohio School Laws, 1904, pp. 33-35, Sec. 3971-3972.

<sup>7</sup>Ibid, p. 103, Sec. 4017.

<sup>8</sup>Ohio School Laws, 1904, p. 105.

full membership" might reemploy any teacher whom the superintendent had refused to appoint. His duties were further specified as follows: "Said superintendent shall visit the schools under his charge, direct and assist teachers in the performance of their duties, classify and control the promotion of pupils, and perform such other duties as the board may determine." He was also required to report to the board annually, and oftener if required, as to all matters under his supervision." The board might require him to attend any or all meetings of the board; and when there he had the privilege of taking part in all deliberations but had no vote. The law also gave the superintendent or a person authorized by him the sole authority for granting age and schooling certificates.<sup>1</sup>

With only slight exceptions the law of 1904 so far as it concerns the office of the superintendency is still in force.<sup>2</sup> The election of a "director of schools" is still permissive. The experience of Ohio cities as to size and representation on boards of education presumably crystallized during the fifteen year period into the general school law of 1919 which provided that cities under 50,000 population should elect a board of education of from three to five members from the city at large; that cities above 150,000 should elect from the city at large a board of from five to seven members; and that cities of from 50,000 to 150,000 population, in addition to from two to seven members elected at large, might divide the city into two sub-districts and elect one member from each sub-district.<sup>3</sup> After three quarters of a century of experimentation, Ohio's verdict is in favor of small boards elected at large.

<sup>1</sup>Ohio School Laws, 1904, p. 114, Sec. 4022-2.

<sup>2</sup>Ohio School Laws, 1915, p. 247, Sec. 7703.

<sup>3</sup>Advance Sheets, Ohio School Laws, 1919, p. 19, Sec. 4698.

**OHIO. SPECIAL LEGISLATION**

In addition to the account of general city school legislation given above, certain experiments in local city school administration permitted through special charter legislation are of interest. The first special city charter<sup>4</sup> granted was to Cincinnati, February 12, 1829. This charter created three bodies responsible for city school administrative functions. The city council was the chief body and controlled all fiscal matters; a board of trustees and visitors consisting of one member from each ward, elected by the voters, was vested with the appointing and organizing powers; the "board of examiners and inspectors" appointed by the board of trustees and visitors, examined teachers and inspected from time to time the instruction and government of the schools.

In 1850 an act was passed which authorized the qualified voters of Cincinnati to elect annually one superintendent of schools. His duties were to visit all the common schools in the city and establish under the direction of the board of trustees and visitors a course of study; also to make rules and regulations to promote the progress of the school."<sup>5</sup> Here again was vested in a single office filled by one man certain of the inspectorial or supervisory functions that had belonged to the "board of examiners and inspectors" and certain administration functions that formerly had rested upon the "board of trustees and visitors." In 1853, "the functions of levying school taxes, providing school houses, and laying off school districts" were taken from the city council and vested in the school board which now consisted of two members elected from each ward.

The following taken from "an abstract of the report of the Board of Education of the City of Cleveland," 1854,

<sup>4</sup>Hinsdale, *The History of Ohio's School System*, p. 141.

<sup>5</sup>Ibid., p. 141.

throws interesting light on the shortcomings of the Acting Manager provided for in the act of 1847, and the reasons given at the time for electing a superintendent.

*Superintendent of Instruction.*—This is also a new feature in our system. The Acting Manager, assisted by the members of the Board, had exercised a general supervision and care over the school. Their attention, however, was necessarily directed more to business than to instruction. There had been no one to superintend this department, with special reference to introducing the best methods of instruction and discipline. The want of superintendence had long been felt. To supply this want, to produce uniform classification, and to add to the general efficiency and usefulness of our schools, the office of Superintendent of Instruction was created.<sup>1</sup>

At the same time there was "conferred upon the Secretary of the Board the duties and powers formerly exercised by the Acting Manager." The concept, embodied in the above statement, of the superintendent as solely a supervisor of instruction is embodied clearly in the enumeration of the "Duties of the Superintendent" as set forth in the "School Rules and Regulations, revised and adopted, October, 1856."<sup>2</sup> The "Manual of the Board" as contained in the annual report of the Cleveland Board of Education for 1868-69 enumerates the following powers and duties of the Superintendent:

- To be the Executive Officer of the Board.
- To supervise the work of Instruction, etc.
- To prepare Blanks and prescribe Rules for Reports.
- Inspect School Buildings, and report condition thereof.
- Keep the Board advised as to School Systems, etc.
- To fix and observe office hours.

<sup>1</sup>Annual Report of the State Commissioner of Common Schools in Ohio, 1854, p. 99-106.

<sup>2</sup>Cleveland Annual Report, Board of Education, 1855-56, p. 84.

Cleveland Annual Report, Board of Education, 1868-69, pp. 149-151.

To make reports.

To call Teachers' Meetings.

To fill Vacancies and make Temporary Arrangements.

To fix the Time, Mode and Standards of Examinations.

To perform other Duties prescribed by the Board.

The relative importance, in the judgment of the board, of their two chief officers, is indicated in their respective salaries:<sup>4</sup> Superintendent of Instruction, \$4000; Superintendent of Buildings, \$1800.

In the mass of special legislation enacted between 1880 and 1900 under the guise of general legislation for grades of cities in the first class we find Cleveland experimenting with an entirely different sort of city school administration. "The legislative powers and authority" was vested in a school council consisting of seven members, and receiving an annual salary of \$260 each. The term of office was fixed at two years. The law also provided for the biennial election by the qualified voters of the district of a "school director" who should be the executive head of the school system, devote his entire time to the duties of his office, and receive an annual salary of \$5000. Among his duties was the following:

(Superintendent of Instruction; term, etc.)

1. The school director shall, subject to the approval of and confirmation by the council, appoint a superintendent of instruction, who shall remain in office during good behavior and the school director may at any time, for sufficient cause, remove him; but the order for such removal shall be in writing, specifying the cause therefor, and shall be entered upon the records of his office; and he shall forthwith report the same to the council, together with the reasons therefor. The superintendent of instruction shall have the sole power to appoint and discharge all assistants and teachers authorized by the council to be employed, and shall report

<sup>4</sup>Cleveland, Annual Report Board of Education, 1868-69.

to the school director in writing annually, and oftener if required, as to all matters under his supervision, and may be required by the council to attend any or all of its meetings; and except as otherwise provided in this act, all employees of the board of education shall be appointed or employed by the school director. He shall report to the council annually, or oftener if required, as to all matters under his supervision. He shall attend all meetings of the council and may take part in its deliberations, subject to its rules, but shall not have the right to vote. (89 v. 76).<sup>1</sup>

This act seems to have been the culmination in Ohio legislation of an ideal of school administration that subordinated the professional school executive to a lay executive elected by the people; and it is typical of a scheme that has carried over into many cities of the country under a commission form of government. In Cleveland it did not last as was noted above in the general legislation of 1904.

#### SUMMARY

1. The earlier school legislation delegated the local enforcement of the same to civil authorities, such as the selectmen and grandjurymen of Connecticut, and the township clerk of Ohio.

2. This principle of vesting local civil authorities with the local administration of schools has gradually lost force until in Ohio and Connecticut we find the only trace of it in the control that the town selectmen of Connecticut have over the question of building and the taxing power.

3. The first legislation that sought to create officials responsible solely for local administration and supervision of schools, provided for the election of boards, usually by popular vote, such as the board of school

<sup>1</sup>Ohio School Laws, 1900, pp. 30-31, (3899-10), Sec. 10.

visitors in Connecticut and the board of trustees and visitors in Cincinnati (special charter 1829).

4. The next step was to empower these boards to appoint a sub-committee which should be responsible for performing the duties assigned by law to the full board. In Connecticut these were known as the Acting School Visitors. In Cincinnati a similar committee from the functional standpoint was the "board of examiners and inspectors."

5. The powers and duties of these sub-committees gradually crystallized, in various forms, into one official position:—in Connecticut the "Acting Visitor;" in Ohio the "Acting Manager."

6. In the earlier forms, this *one* position invariably included the clerical or secretarial duties of the Board. This is illustrated in the clause of the Connecticut law which provides that the board of visitors might appoint one or more of their number as acting visitors, one of whom should be the clerk of the board. The same principle is illustrated in the reorganization of the Cleveland board in 1853, which delegated the powers of the former Acting Manager to the Secretary, and created the office of Superintendent of Instruction.

7. The supervisory and executive functions of the committee of one differentiated into the office of superintendent of instruction.

8. In Ohio the executive functions further differentiated into two positions: a director of schools and a superintendent. The relative importance of the two is indicated in the fact that a director may be elected; a superintendent *must* be.

9. After some trial of almost every possible scheme of local school administrative machinery, in both states, the law recognized the value of small boards, elected at large —this board to appoint the superintendent.

10. The law recognizes the superintendent as a State official, in that it—

- a. Empowers a centralized State authority to determine the qualifications for the office and to judge the fitness of each individual.
- b. Specifies certain duties and responsibilities of the office.
- c. Assigns to the superintendent duties over which the board of education has no control whatsoever.
- d. Holds the superintendent liable to penalty for non-performance of certain specified duties.

11. The Connecticut law has recognized the right of the state centralized educational authority to appoint and dismiss the local superintendent when said State authority is responsible for payment of part of said superintendent's salary.

### CHAPTER III

## GENERAL SCHOOL LAWS CONCERNING CITY SCHOOL ADMINISTRATION

"In law we have the persistence of parchment, of Latin terms, of obsolete phrases, of seals, of criers, of wigs and gowns." —Ross, *Social Control*, p. 193.

Likewise in the school laws of today we find interwoven with new concepts old ideas that were written into the law during a pioneer period; and we find principles of a modern day operating as best they can through an administrative organization that has long outlived its usefulness.

The essence of this chapter is tabulated in Chart A of the appendix. The information is taken from the publication of school laws of each state under the date given in the chart. In a few cases where the session laws of each session of the general assembly or legislature of the state were available in addition to the publication of the general school law, the date on the chart indicates that all laws in force up to and including said date were read and tabulated.

Table one indicates the classification of districts in each state and the class or classes of districts to which the data of Chart A and of this chapter apply. Inasmuch as a separate chapter is given to the school laws of the larger and more populous cities of various states, this chapter is devoted to the general legislation applying to the smaller cities. However, in many of the states the classification varies for different purposes; and, occasionally,

in this study, a principle is tabulated when it applies only to a certain group of the general class of districts under consideration. While certain of these variations are indicated in footnotes or in the general discussion of the law, the chief purpose of this chapter is to set forth the general principles embodied in the laws as they concern the relationships and particular responsibility of board of education, superintendent, teachers, municipal civil authorities, the public, county officials, and centralized state authority.

It should be noted here, also, that certain of the states operate their schools altogether under the county system, the only schools which are exceptions being those of the cities under special charters. Florida, Georgia and Maryland are striking examples of this organization. They are omitted from this discussion because their county boards and county superintendents do not fit into a study of the relationships between city superintendent and city board of education. North Carolina, South Carolina and Tennessee constitute a second group whose general legislation for the administration of city schools is quite limited. Louisiana is included in the study, although its parish system belongs to the county type rather than to the city type. California, Arizona, and Missouri are typical of a number of states where the county system dominates and where the special needs of cities have been recognized largely through special charter legislation. New York and Pennsylvania have evolved a classification of cities that makes legislation for all cities of any designated class fairly satisfactory.

#### CONSTITUTIONAL PROVISIONS

"The General Assembly shall establish and maintain an efficient system of public free schools throughout the State." —Virginia, State Constitution, Sec. 129.

The foregoing is a typical constitutional provision for the public school system of any of the states. For the purpose of this study a more specific provision is contained in the State Constitution of Arkansas, Article XIV, Sec. 4:

"The supervision of public schools, and the execution of the laws regulating the same, shall be vested in and confided to such officers as may be provided for by the general assembly."

An interpretation of clauses such as the above is set forth clearly in an opinion handed down by the State Supreme Court of Texas. After quoting from Article VII, Sec. 1, of the State Constitution, ". . . It shall be the duty of the Legislature of the State to establish and make suitable provisions for the support and maintenance of an efficient system of public free schools," the court rendered the following opinion,— "This devolves the duty of establishing and maintaining public free schools upon the Legislature, and shows that the function of such establishment and maintenance was to be performed by State agencies. . . . , Though, in a sense, a county officer, and though called 'county superintendent,' he is, in fact, the officer and agent of the State, the State having assumed the functions of maintaining public free schools for the education of the children throughout its domain, the counties being recognized with reference to that business merely as convenient subdivisions of territory, and some of their officers as proper agents for the administration of affairs relating to the public free schools."<sup>3</sup>

From the opinion rendered as stated above it was an easy and most logical process of reasoning that assigned to the city superintendent certain powers and duties there-

<sup>3</sup>Arkansas School Laws, 1914, p. 33 (7505).

<sup>4</sup>Texas School Laws, 1917, p. 20.

tofore vested in the county superintendent when cities were made free of all county control.<sup>2</sup>

#### CLASSIFICATION OF CITY DISTRICTS

Table I shows the basis used by different states for classifying city school districts; and also indicates the smallest unit that the states have considered should employ a superintendent of schools. A number of the states not included in the table operate under a county organization and so have made no provision in the general school law for the administration of city schools. A few, such as New York, classify for certain purposes, but group all of those classes into one class in legislation concerning the duties of the superintendent. The table does not include all states that have classified city districts; but it is typical. It shows that for purposes of legislation city districts are classified on the basis of average daily attendance, pupils enrolled, school population of certain ages, number of teachers, and city population. In Delaware the willingness and ability of the district to meet certain specified requirements determine its operation under the law. The table also shows, not only the classes of districts considered in this study, but, particularly, the minimum size of cities in the states permitted under the law to employ a superintendent. Roughly, these minimum figures are: 1000 to 5000 population, 20 to 50 teachers, 350 to 500 pupils. If the states not included in the table are considered, also, there seems to be a tendency toward making population the basis of classification for school purposes.

<sup>2</sup>North Carolina, 1917, p. 59, Sec. 4137. "By and with the consent of the county board of education, the school committees of two or more contiguous districts in any city or town may, by a majority vote of the committee in each district, employ a practical teacher, who shall be known as the superintendent of the public schools of such district, and he shall perform all duties of the county superintendent of public instruction as to such districts. (Italics by the author.)

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TABLE 1. CLASSIFICATION OF CITY DISTRICTS

Showing the basis of classification in certain typical states, the classes of districts chiefly considered in this chapter, and indicating the minimum sized cities that are permitted to employ a city school superintendent.

State	Basis of Population	Names and definitions of classes considered chiefly in this study
Alabama . . . . .	Population . . . . .	1st class, 6000; 2nd class, 2000-6000
Arizona . . . . .	Average Daily Attendance . . . . .	500 or more pupils
Arkansas . . . . .	School Pop. 6-21 yrs. of age . . . . .	5000 or more
Colorado . . . . .	School Population . . . . .	2nd class, 350-1000 pupils
Connecticut . . . . .	No. of Teachers . . . . .	30 or more
Delaware . . . . .	Conforming to Statutory Provisions . . . . .	Special Districts
Idaho . . . . .	Wealth & No. of Teachers . . . . .	Independent, Class A, 20 or more teachers
Illinois . . . . .	Population . . . . .	1000-100,000
Kansas . . . . .	Population . . . . .	2nd class, 2000-15,000
Kentucky . . . . .	Population . . . . .	2nd, 3rd, 4th Classes 2500-100,000
Maine . . . . .	No. of Teachers . . . . .	50 or more
Montana . . . . .	Population . . . . .	1st Class, 8000
Nebraska . . . . .	Population . . . . .	1st Class, 5000; 2nd Class, 1000-5000
Nevada . . . . .	No. of Teachers . . . . .	Graded Dist. 10 or more teachers
New Hampshire . . . . .	No. of Teachers . . . . .	Supervising Unions, 20 or more teachers
Ohio . . . . .	Population . . . . .	Cities: 3000-50,000, 50,000-150,000, 150,000—
Oregon . . . . .	School Population . . . . .	1000 or more pupils
Pennsylvania . . . . .	Population . . . . .	1st, 500,000; 2nd, 30,000-500,000; 3rd, 5,000-30,000
Utah . . . . .	Population . . . . .	1st Class; 2nd Class
Vermont . . . . .	No. of Teachers . . . . .	Supervision Districts, 25 or more
Virginia . . . . .	Population . . . . .	1st Class, 10,000 or more
Wyoming . . . . .	Population . . . . .	City, 1000 or more people

## THE SUPERINTENDENT—HIS RELATIONSHIP TO THE ELECTORATE—HIS TERM OF OFFICE AND TENURE

Table II shows the provision that state legislative bodies have made for choosing city school officials, their term of office, and the authority for removal of the chief executive officer. Omitting the three states already noted, all of the others have local city boards. In six

states these boards are appointed; in the others they are elected by popular vote. In number they range from 3 to 15 members with the mode at 5 or 6. They serve from 2 to 6 years each with the mode at 3 years. In Virginia the State Board of Education appoints and may remove the city superintendent of schools.<sup>1</sup> In Delaware the city board appoints the superintendent subject to the approval of the state commissioner of schools.<sup>2</sup> In New Hampshire the city board nominates and the state board upon consultation with the local board appoints.<sup>3</sup> In Pennsylvania the city board appoints; but if one-third of the board and others of the city protest the appointment to the state commissioner he may refuse to confirm the appointment.<sup>4</sup> In Vermont and Connecticut the state boards of education appoint the local superintendent for certain classes of districts.

The usual term for which a superintendent may be elected is one year; but most of the states have recognized the value of a longer time. Four states have made the term definitely four years; one, three years; two, two years; sixteen states permit boards to elect for terms not to exceed two, three, four, or five years, as the case may be; two or three have provided for initial terms of one or two years, and for terms of two, three or four years when reappointed. The underlying principle in determining the maximum length of term for which a superintendent may be elected seems to be the length of term for which a member of the board is elected. In a few cases however the maximum term length is merely an arbitrary figure.

<sup>1</sup>Virginia School Laws, 1915, p. 7, Sec. 8.

<sup>2</sup>Delaware, 1919, p. 60, Sec. 137.

<sup>3</sup>New Hampshire, p. 5, Sec. 9-7.

<sup>4</sup>Penn., The School Law, 1919, p. 73, Sec. 1141.

TABLE II. BOARD OF EDUCATION AND SUPERINTENDENT; METHOD OF APPOINTMENT AND LENGTH OF TERM

State	How Elected	Board of Education Num.	Term Yrs.	Superintendent		
				How Elect.	Term	How Removed
Alabama	By City Council	5	5	Board	2	Board
Arizona	Popular Vote	3	3	Board	1—2	Board
Arkansas	Popular Vote	6	3	Board	1	Board
California (a)	Popular Vote	2, 5	3, 6	Board	4	Board
Colorado	Popular Vote	3, 6, 9, 12	3, 6	Board	(b)	
Connecticut	Popular Vote	3	3	Board	*1	*Board
Delaware	Popular Vote			Board	3	State
Florida-Georgia	County Organization			Board		
Idaho	Popular Vote	6	3	Board	1—3	Board
Illinois	Popular Vote	(a) 7—15	3	Board	1	Board
Indiana	City Council	3	3	Board	1—3	Board
Iowa	Popular Vote	3	3	Board	1—3	Board
Kansas	Popular Vote	5	4	Board	1—2	Board
Kentucky	Popular Vote	5	4	Board	2	Board
Louisiana	Popular Vote by Wards			Board	4	Board
Maine	Popular Vote	3	6	Board	1—5	Board
Maryland	County Organization			Board		
Massachusetts	Popular Vote	3, 6, 9, 12 or 15	3	Board		
Michigan	Popular Vote	5, 7	3, 6	Board	1	Board
Minnesota	Popular Vote	6	3	Board	1—3	Board
Mississippi	Board of Mayor & Aldermen	5	3	Board	1	Board
Missouri	Popular Vote	6	3	Board	1—	County
Montana	Popular Vote	7, 5	3	Board	(b)	Board
Nebraska	Popular Vote	6	3	Board	1	Board
Nevada	Popular Vote	3, 5	3	Board	1—3	Board
New Hampshire	Popular Vote	3, 6, 8	3	Bd. St.	1	State
New Jersey	Appointed by Mayor	9, 5	3, 5	Board	1—	Board
New Mexico	Popular Vote	5	3, 5	Board	1—2	Board
New York	Pop. Vote—App. by May.	3—9	3, 5	Board	1—1	Board
North Carolina	By Board of Aldermen	5—7	3	Board	1—2	Board
North Dakota	Popular Vote	5	3	Board	1—3	Board
Ohio	Popular Vote	3	4	Board	1—5	Board
Oklahoma	Popular Vote	3	4	Board	1—3	Board
Oregon	Popular Vote	5	3	Board	1—	Bd., State

TABLE II. BOARD OF EDUCATION AND SUPERINTENDENT; METHOD OF APPOINTMENT  
AND LENGTH OF TERM

State.	(d)	Board of Education How Elected	Num. 9, 7	Term Yrs.	How Elect. Bd. St. Board	Superintendent Term How Removed
Pennsylvania		Popular Vote	3	6	4 Board	1— Board
Rhode Island		Popular Vote	9	3	Board	1— Board
South Carolina		Popular Vote	5	3	Board	1— Board
South Dakota		Bd. of Mayor & Aldermen	6	3	Board	1— Board
Tennessee		Popular Vote	7	2	Board	1—2 Board
Texas		Popular Vote by Wards	10, 5	4 5	Board	2 Board
Utah		Popular Vote	3	3	Board	1— Board
Vermont		City, Co., 3 from each Wd	3	3	State	4 State
Virginia		Popular Vote	3	3	Board	1—2 Board
Washington		Popular Vote	3	4	Board	1 Bd., State
West Virginia		Popular Vote	7	5	Board	1—3 Board
Wisconsin		Popular Vote	3, 6	3	—(b)	
Wyoming						

\*Towns employing less than 30 teachers must elect a superintendent or accept an agent appointed by the state, whose term is three years.

(a) A president, six members and three additional members for every additional 10,000 inhabitants—the board in no case to consist of more than 15 members. President is elected annually. Ill., 1917, p. 45, Sec. 123.

(b) Power to elect a superintendent is implied in the power to elect teachers. Tenn., 1917, p. 61, Sec. 4; Wyo., 1919, p. 43, Sec. 130; Mo., 1917, p. 19, Sec. 10787.

(c) Approved by State Commissioner of Education.

(d) Data applies only to cities of the 2nd and the 3rd class.

(e) Procedure varies: determined by "provisions of the laws governing such cities." Cal., 1919, p. 104, Sec. 1606.

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With the exceptions noted in Table II the power to remove the superintendent is vested in the city board of education. In South Dakota "he holds his office during the pleasure of the board."<sup>8</sup> In Utah he "may be removed from his office for cause by the vote of two-thirds of the board."<sup>9</sup> In Minnesota "such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place and object he has been duly notified, with the reasons of such proposed removal, and after an opportunity to be heard in his own defense."<sup>10</sup> In Massachusetts his removal from office must be by a two-thirds vote of the full membership of the committee (city board of education) and "with the consent of the (State) board of education to such dismissal."<sup>11</sup> In Virginia he may be removed by the state board of education "for cause and upon notice."<sup>12</sup>

The Montana law contains a tenure provision for the superintendent—"provided, that after his successive employment he shall be deemed elected from term to term of three years each, thereafter, unless the board of trustees shall by a majority of the votes of its members give notice to such superintendent on or before the first of February of the last year of the term of his employment that his services will not be required for the ensuing term."<sup>13</sup>

<sup>8</sup>South Dakota School Law, 1915, p. 11.

<sup>9</sup>Utah School Law, 1915, p. 11.

<sup>10</sup>Minnesota, 1915.

<sup>11</sup>Massachusetts, 1915.

<sup>12</sup>Virginia, 1915.

<sup>13</sup>Montana School Law, 1915.

RELATIONSHIPS OF BOARD OF EDUCATION AND SUPERINTENDENT IN THE EXERCISE OF CERTAIN ADMINISTRATIVE FUNCTIONS

An examination of the general laws shows five fundamental conceptions of the relationship that a superintendent should bear to the board of education in the exercise of the various functions of school administration.

(1) First, the responsibility for the exercise of the function is vested solely in the board of education which body has the privilege or is required to elect a superintendent who shall "have a general supervision of the schools.... subject to the rules and regulations of the board."<sup>1</sup> This relationship is expressed by the figure 1 in Chart A; and is the first step removed from the legislation which recognized only the one teacher school and the "committee of householders"<sup>2</sup> responsible for the conduct of school affairs.

(2) A second fundamental concept is that the superintendent should be the expert adviser to the board of education. This takes two forms. The first form suggests the right of the board to call on the superintendent for assistance or advice. The following from the Rhode Island Law is illustrative—"The superintendent shall give the school committee such assistance as it may direct in keeping its records and accounts and in making such reports as are required by law."<sup>3</sup>

The other form protects the right of the superintendent to advise. In a few states the right to advise applies to all functions vested in the board. The Pennsylvania law is typical—"The district superintendent shall have a seat in the board of school directors of the district and the right to speak on all matters before the

<sup>1</sup>South Dakota, 1918, p. 93, Sec. 204.

<sup>2</sup>Chapter 11, p. 24, The Ohio Law of 1821.

<sup>3</sup>Rhode Island, 1918, p. 6, Chapter 1667, Sec. 1.

TABLE III.   POWERS AND DUTIES OF THE SUPERINTENDENT

Enumerating functions in which the superintendent is legally permitted or required to advise the board of education: the board is in no way obligated to follow the advice.

FUNCTIONS	STATES
Attendance, Enforcement of Compulsory Laws.....	Me., Mass., Mont., N. H., Okla., Oreg., S. Car., S. Dak., Ut., Vt., Wash., Wis., Wyo.
Budget, Preparation of.....	Me., Penn.
Course of Study, Preparation of .....	Ky., Mass., Mich., Miss., N. Dak., Penn., R. I., Wis.
Other Employees	
Appointment .....	N. J., N. C.
Dismissal .....	N. H., N. J.
Medical Inspection, Provision for .....	N. D., R. I.
Organization of Schools.....	Mich., N. J., Ohio
Reports: to County and State	
Authorities .....	Ill., R. I.
To Public.....	Mass.
Supervision of:	
Schools in general.....	Mass., R. I.
Supplies: Selection of.....	Vt., Wash., Wis., Wyo.
Textbooks .....	Idaho, Iowa, Mass., Mich., N. D., R. I.
Instructional .....	Penn., R. I., Vt.
Other .....	Penn., R. I., Vt.
Teachers	
Examination .....	Kans., N. J., Ore., S. D., Ut., Wash.
Certification .....	Kans., N. J., Ore., S. D., Wash.
Appointment .....	Conn., La., Mass., Mich., N. J., N. D., Penn., R. I., W. Va.
Transfer .....	N. J., Penn.
Promotion .....	N. D., Penn.
Dismissal .....	La., Mich., N. H., N. J., Ohio, Ore., Penn.

<sup>1</sup>Must have the approval of the superintendent. Pennsylvania, 1919.  
p. 104, See. 1607 (b).

board, but not to vote."<sup>1</sup> Table III enumerates certain functions and names the states which specifically recognize the advisory duties of the superintendent in the exercise of those functions.

(3) A third conception of relationship between the board and the superintendent differentiates their duties and powers on the basis of responsibility for official initiative in the exercise of certain functions. The intent of the law seems to be that, in these cases, the power of official initiative should be denied to the board; and there is a growing tendency to safeguard the superintendent's position by expressly stating in the law a denial of the board's right to initiate. Table IV indicates the extent to which the principle has been written into the statutory law.

(4) Table V shows that there are a few functions for the exercise of which the superintendent is responsible and over which the local board has little or no control whatsoever. In these cases, the superintendent is directly responsible to a centralized state authority. An interesting development of this principle, not indicated in Table V, is taking place in the New England States, which, in certain classes of districts, have made the local superintendent in some sense a state official. The following from the Vermont Law is indicative of the operation of the principle.<sup>2</sup>

"The Superintendent shall ascertain whether the requirements of this chapter relating to the appropriations and expenditure of money from the town treasury for the support of schools under his charge are complied with; and, in case of noncompliance, he shall bring the matter to the attention of the state's attorney or grandjury."

<sup>1</sup>Pennsylvania, 1917, p. 71, Sec. 1142.

<sup>2</sup>Vermont, 1915, p. 34, Sec. 171.

TABLE IV. POWERS AND DUTIES OF THE SUPERINTENDENT

Enumerating those functions in the exercise of which the power of official initiative is vested in the superintendent: the board's responsibility being confined to action upon the superintendent's recommendations.

FUNCTIONS	STATES
Attendance, Enforcing Compulsory Attendance Laws.....	Ind., Kans., Mich., N. J., N. Y. N. C., Pa., Tenn., Tex., W. Va.
Appointment of	
Attendance Officers .....	Del., Ky., Tenn.
Teachers .....	Del., Ky., Me., N. H., N. Y., O.
Other Employees.....	Del., Ky., N. H.
Budget, Preparation of.....	Del.
Building Plans, Preparation of..	Del.
Course of Study, Preparation of..	Del., N. Y.
Pupils, Suspension of.....	Idaho, Kans., Ky., Mont., Tenn., Vt., Wash.
Reports to	
State or County Authorities....	Del., Miss.
Public .....	Del., Conn., Ky., La., Vt.
Supervision	
General Supervision of Schools.	N. H., N. Y., N. C., N. D., Ohio, S. D., Va., W. Va., Cal., Del., Kans., Ky., Mich., Mont., Nev.
Of Classroom Instruction.....	Del., Ky., N. H., N. Y., N. C., Ohio
Supplies: Selection of	
Textbooks .....	Del., Ky., Me., N. Y., Pa.
Instructional .....	Del., Ky., Me., N. Y.
Other Supplies .....	Del., Me.
Teachers	
Examination .....	Ark., Ky., N. Y., Ohio, Okla., Wis.
Certification .....	Ark., Ky., N. Y., Ohio, Okla., Wis.
Transfer .....	Del., Ky., N. Y., W. Va.
Promotion .....	Del., Ky.
Suspension, Dismissal.....	Del., Ky., Mass., N. Y.

TABLE V. POWERS AND DUTIES OF THE SUPERINTENDENT

Enumerating those powers and duties delegated by the various states to the superintendent: the intent of the law apparently being that in these matters the superintendent should be responsible to a state authority and not to the board of education.

FUNCTIONS	STATES
Directing the activities of attendance officers.....	Conn., Ky.
Taking the Census.....	Ala., Del., Me.
Enforcing Compulsory attendance laws.....	Del., Idaho, Ill., Ky., Minn.
Granting Working Papers.....	Ala., Ark., Ariz., Cal., Conn., Ind., Kans., Ky., Me., Mass., Mich., Minn., Mo., Mont., Neb., N. H., N. Y., N. D., Ohio, Pa., Vt., Wash., W. Va.
Reports to County Authorities.....	Minn., Mont., N. J., N. C., Wash.
Reports to State Authorities.....	La., Me., Mass., Mich., Minn., N. H., N. J., N. C., Pa., Tex., Va., Vt., Wash., W. Va., Wis., Wyo.
Reports to Public.....	Me.
Examination and certifications of teachers (local service only) .....	Pa., Wis.
Transfer of Teachers.....	Va.

Another illustration is, ". . . The superintendent may give written permission to a teacher to dismiss school for not more than two days whenever such dismissal seems to him necessary or proper."<sup>1</sup>

(5) A fifth relationship, that is, vesting the power of veto or approval over the actions of the board of education in the office of the superintendent, finds little place in the general school law of the various states. It would seem that this principle could actually operate only in those states where the superintendent's tenure is largely beyond the control of the board of education.

<sup>1</sup>Vermont, 1915, p. 22, Sec. 111.

RELATIONSHIPS OF THE PUBLIC TO THEIR CITY SCHOOL  
OFFICIALS

The older law gave the public a very large control over the conduct of their school officials. As the New England influence moved westward, the town meeting became the annual school meeting and still holds a place in the law, particularly, in the law applicable to rural and village schools.<sup>1</sup> Table VI shows a few remaining influences of the earlier democratic control.

TABLE VI. POWERS OF VETO AND APPROVAL VESTED IN THE PUBLIC

Enumerating those functions, and the states concerned, in the exercise of which the school authorities must submit their proposals to the public for acceptance or rejection by popular vote.

FUNCTIONS	STATES
Budget .....	Ark., Me., Neb., N. H., R. I.
Taxation, Increasing rate above statutory limits, or for some special service.....	Kans., Ky., La., Miss., Mo., Mont., Neb., N. C., N. D., Ohio, Okla., Pa., Tex., Utah, Wash., W. Va., Wyo.
Buildings and Grounds	
Purchase and sale of.....	Ky., Mass., Mich., Minn., Mont., Neb., Nev., N. M., Okla., Ore., R. I., Vt., Wash., Wyo.

An interesting illustration not given in the table is the New Jersey law, applicable to all districts employing supervising principals, which requires the board of education to submit their annual estimate or budget to the electors at the annual meeting.<sup>2</sup> A form of immediate public control that has remained and in some respects has grown in favor is indicated in Table VII. This influence is usually exercised through the medium of a petition. An illustration of this principle is con-

<sup>1</sup>For example see Iowa School Laws, 1919, Annual Meeting, 2829, 2836, 2837, 2778, 2811, 2746, 2747.

<sup>2</sup>New Jersey, 1918, p. 54, Sec. 109.

TABLE VII. INITIATORY POWERS OF THE PUBLIC

Enumerating a few functions illustrative of the three degrees of action that public initiative, usually exercised through a petition, may compel a board of education to take.

Functions	Initiative is Granted to the Public; and—		
Establishment of Evening Schools.....	Board is free to act according to its own judgment	Board is required to act according to public mandate	Board is required to submit question to public vote for final decision
Purchase or Sale of grounds .....	Mont.	O., Pa., N. H. Ia.	Wis.
Establishment of Community Centers or Use of Schools for Community Center Work .....	N. H. Ind., Mich., Ohio	Wis. Okla	

tained in the Missouri law:—"Special school meetings for the transaction of business authorized,... Shall be called by the board when a majority of the qualified voters of the district sign a petition requesting the same, and designating the purpose therein for which said meeting is desired." In most cases a petition from a much smaller proportion of the voters registered at the last general election is sufficient to require action by the board; in New Jersey a petition signed by 50 voters can bring action on any matter under the jurisdiction of the board;<sup>1</sup> in other cases five per cent. of the voters,<sup>2</sup> 10 of the legal voters,<sup>3</sup> "15 per cent. of the qualified electors"<sup>4</sup> .... are sufficient.

<sup>1</sup>Missouri. Revised Statutes 1909, Vol. 3, Ch. 106, p. 3351, Sec. 10799.

<sup>2</sup>New Jersey, 1918, p. 58, Sec. 116X.

<sup>3</sup>Illinois, 1919, p. 36, Sec. 1-2.

<sup>4</sup>Colorado, 1917, p. 62, Sec. 123.

<sup>5</sup>Connecticut, 1916, p. 64, Sec. 205.

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TABLE VIII. METHODS OF KEEPING THE PUBLIC INFORMED IN REGARD  
TO THE WORK OF THEIR BOARD OF EDUCATION  
*Code for Interpretation of Table*

1. The exercise of the function is required of the board.
2. Required of the board with the advice of the superintendent.
3. Required of the superintendent subject to the approval of the board.
4. Required of the superintendent.

State	Board Meetings Open to Public...	Board Records Open to Public...	Publication of Official Proceedings ...	Board Required to Report to the Public (usually in published form)			Proposed Policies
				Financial Statement	Estimate or Budget	Condition or Progress of Schools	
Alabama							
Arizona			1				
Arkansas			1				
California			1				
Colorado			1				
Connecticut			1				
Delaware			1				
Idaho			1				
Illinois			1				
Indiana			1				
Iowa			1				
Kansas			1				
Kentucky			1				
Louisiana			1				
Maine			1				
Maryland			1				
Massachusetts			1				
Michigan			1				
Minnesota			1				
Mississippi			1				
Missouri			1				
Montana			1				
Nebraska	1		1				
Nevada			1				
New Hampshire			1				
New Jersey	1		1				
New Mexico			1				
New York	1		1				
North Dakota			1				
Ohio			1				
Oklahoma			1				
Oregon			1				
Pennsylvania			1				
Rhode Island			1				
South Carolina	1		1				
South Dakota	1		1				
Tennessee			1				
Texas			1				
Utah			1				
Vermont			1				
Virginia		1	1				

TABLE IX. VETO AND APPROVAL POWERS VESTED IN MUNICIPAL AUTHORITIES

Enumerating functions in the exercise of which the power of veto and approval is vested by certain states in municipal civil authorities.

FUNCTIONS	STATE
Buildings and grounds	
Purchase and Sale of.....	Me., N. H., N. J., N. Y., Tex., Va., Wis.
Plans for New Construction..	Mass., N. H., N. Y., Wis.
Rent and Repairs .....	Wis.
Budget, Approval.....	Mich., Miss., N. J., N. Y., Vt., Va., Wis.

The present tendency, however, seems to be toward leaving all responsibility of management to school officials, and of devising ways whereby these officials may be responsive to the public will. One means of keeping officials close to the public is to keep the public closely informed of their action. Table VIII shows the four chief methods utilized in the law for keeping the public informed of the actions of their school officials; the table also shows the responsibility resting on the superintendent in this matter.

#### RELATIONSHIPS OF SCHOOL OFFICIALS TO CIVIL AUTHORITIES OF THE CITY

The control of school functions vested, by the earlier law, in municipal civil authorities has largely disappeared; and is altogether confined to matters of the budget and property. Tennessee is the only state which still vests the chief control of these two functions in the board of mayor and aldermen.\* Table IX names those states which make action of the board of education subject to the approval of the city municipal authorities in matters pertaining to the budget and to buildings and grounds.

\*Tennessee, 1920, Sec. 52, sub. sec. 2 (p. 46).

TABLE X. THE COUNTY SUPERINTENDENT AND CITY SCHOOL ADMINISTRATION

Naming states in which certain acts of city school officials are not valid until approved by the county superintendent of schools.

FUNCTIONS	STATE
Attendance	
Taking the census.....	Ind., Nev., Okla., S. C., Tenn., Texas.
Enforcement of Compulsory	
Attendance Laws.....	Minn., Wyo.
Buildings	
Plans for new construction....	Iowa, W. Va.
Teachers	
Examination and Certifica-	
tion .....	Ore.
Dismissal .....	Mont., S. C., Texas.

#### RELATIONSHIPS OF CITY SCHOOL OFFICIALS TO COUNTY AND STATE AUTHORITIES

In the smaller cities of many states county officials still have some control of certain functions of city school administration. This control is indicated in Table X; and is usually coincident with the theory that the county superintendent is an official of the state responsible for the administration of certain school functions in a particular subdivision of the state.

State control of city school administration takes two distinct forms. In the first, indicated by Table XI, the city school officials have the power of initiative, and the centralized state authority is vested with the power of veto or approval.

In a rare and extreme form, Table XII, the centralized state authority is vested with complete control of the respective function; and the only privilege of the local officials is the obligation to carry out instructions received.

TABLE XI. POWERS OF VETO AND APPROVAL VESTED IN A CENTRALIZED STATE AUTHORITY

Naming states in which the acts of local officials in the exercise of certain functions are not valid until approved by a centralized state authority. In a few cases the act of the local officials is valid unless overruled—usually as the result of an appeal—by a state authority.

FUNCTION	STATES WHICH CONTROL THROUGH A CENTRALIZED STATE OFFICIAL
Attendance, Taking of Census.....	Me., R. I.
Enforcement of Compulsory Attendance Laws.....	N. H., N. J., N. Y.
Buildings, Plans for New Construction...	Kans., La., Me., Mich., Mont., Nev., N. Mex., N. C., Ohio, Ore., S. Dak., Tex.
Course of Study.....	N. J., Ohio, R. I., Tex., Va., Wash.
Medical Inspection.....	N. H., N. C., Ohio, R. I., Wyo.
Evening Schools, Establishment of .....	Me., Nev., N. H., N. J., R. I., Utah, Va.
Day-Continuation Schools, Establishment of.....	Mass., N. H., N. J., Ore., R. I., Utah
Special Classes Establishment of.....	Mass., Mich., Minn., Ohio, Penn., Wis.
Selection of Text-books.....	Miss., Ore., Wyo.
Teachers Examination and Certification..	Ark., Ky., N. J., N. Y., Pa.
Dismissal .....	N. H., Ore., Tex., W. Va.
Superintendent Appointment .....	Del., N. H., Pa.
Dismissal .....	Del., Ore., W. Va.

TABLE XIII. POWERS VESTED SOLELY IN A CENTRALIZED STATE AUTHORITY

Functions of local administration over which the centralized state authority has full control in the states named.
Course of Study.....Kans., La., Mont., Nebr., Nev., N. H., N. Mex., N. C., N. Dak., Okla., Tenn., Vt. W. Va., Wyo.
The Superintendent's Appointment .....Va.
Dismissal .....Va., N. H.
Selection of Text-books.....Ariz., Ind., Kans., La., Mont., Nev., N. Mex., Okla., Tenn., Tex., Va., W. Va.
Examination and Certification of Teachers .....Ariz., Del., Idaho, Ill., Iowa, La., Mo., Minn., Nev., N. H., N. Mex., N. Dak., R. I., Tenn., Vt., Va., W. Va., Wyo.

RESPONSIBILITY OF THE SUPERINTENDENT AS SPECIFIED IN THE LAW FOR THE EXERCISE OF CERTAIN FUNCTIONS

Tables III, IV and V indicate the extent to which the law of the different states recognizes the city superintendent as a school official. An examination of the provisions made by different states for the exercise of certain administrative functions throws additional light on the legal status of the city school superintendent. These functions will be treated in the order they are given in Chart A.

*Attendance*

The Wyoming law places the responsibility of enforcing the compulsory attendance law upon the "sheriff of every county," upon the deputy sheriff, and upon the "constables within their respective precincts;" but it also provides that the school board of any district containing a city or town of more than 2,500 inhabitants may appoint a regular truant officer, "who shall be paid—not exceeding—the sum of four dollars for each day of actual

<sup>1</sup>Wyoming, 1919, p. 44, Sec. 132.

service." In Kentucky "all applicants for the position of truant officer shall be examined by the superintendent of schools, who shall certify to the board of education, only such persons qualified as herein provided.<sup>2</sup> All appointments, promotions and transfers of truant officers —shall be made only upon the recommendation of the superintendent and the approval of the board.<sup>3</sup> And further, "such truant officers shall be under the direct supervision and control of the city superintendent of schools."<sup>4</sup>

The Wyoming law attempts to meet the situation in a new and sparsely populated state, where cities have scarcely developed; and the need for strong city superintendents has not made itself felt in legislative halls. The Kentucky law recognizes the enforcement of compulsory attendance laws as a basic principle of public education and centers the authority and responsibility for their enforcement in the office of the city superintendent. The right of the state in this matter is seen in the Oklahoma law which empowers the state board of education "to supervise such city district....truancy officer and to remove any incumbent of such office upon satisfactory proof of his incompetency or failure to enforce the compulsory education law."<sup>5</sup>

Responsibility for taking the census is usually vested in the board of education; often it is specifically delegated to the clerk or secretary of the board. In states which have vested the clerical or secretarial duties of the board in the office of the superintendent the latter official has usually been required as in the Alabama law to attend to the taking of the school census.<sup>6</sup> New York, in cities

<sup>2</sup>Kentucky, 1918, p. 258, Sec. 582.

<sup>3</sup>Ibid. p. 212, Sec. 466.

<sup>4</sup>Ibid. p. 259, Sec. 585.

<sup>5</sup>Oklahoma, 1919, p. 51, Sec. 252.

<sup>6</sup>Alabama, 1919, p. 132

of the 2nd and 3rd classes, has constituted the board of education a permanent census board and has made the police responsible for recording a continuous census:<sup>7</sup> in cities of the first class (New York excepted) the mayor, superintendent of school and police commissioner constitute the census board.

The authority to excuse children from the requirements of the compulsory attendance law, to grant working papers, and to decide when home instruction is satisfactory, are, in the majority of states, vested either altogether in the superintendent or in the superintendent subject to the board's approval. The authority to grant working papers is usually specifically provided for: The Pennsylvania law is typical: it provides,<sup>8</sup> "That any district superintendent...hereby authorized to issue such certificates may authorize and deputize, in writing, any other school official to act in his stead for the purpose of issuing such certificates."

#### *The Budget*

The power of initiative in budget making or preparation of the estimate is, with two exceptions, vested in the board of education. Tennessee vests the sole authority for budget making in the board of mayor and aldermen, while Delaware places the power of initiative in the office of the superintendent with the power of approval resting in the board of education. Table IX shows the authority of municipal civil authorities in veto or approval of the budget; and Table VI shows the extent to which this same power is vested in the electorate. Chart A shows the extent to which the states have vested the powers of preparation of estimates and levying of the school tax solely within the board of education. The

<sup>7</sup>New York, 1918, p. 200-202, Sec. 650-652.

<sup>8</sup>Pennsylvania, 1919, p. 172, Sec. 3608.

Oregon law suggests a means whereby this authority may be vested in elected school officials and the power of public opinion still operate to reproduce the best results for the schools. It provides that a public meeting shall be called by the board within 30 days after the preparation of the budget, that notice of said meeting including copy of the budget shall be published in a newspaper of the district having a general circulation; and that "Any legal school elector of said district may attend such meeting and shall be accorded a hearing on any item on such budget."<sup>1</sup>

#### *Buildings and Grounds*

The laws indicate three distinct phases of responsibility that have been placed on the superintendent in connection with buildings and grounds. He may or shall advise<sup>2</sup> the board as to repairs, rent, insurance, purchase, sales, plans for new construction and in the supervision of construction.

In a few states no school building can be erected until the city superintendent has approved the plans.<sup>3</sup> The Texas law is typical,—"In a city or town that has assumed control of its schools, the superintendent of public schools in that district or city or town is hereby authorized, empowered and required to examine all plans for all proposed public school buildings costing over \$400, and to grant permits only for such buildings, as conform to the requirements of this act, and to make a report to the State Department of Education of all such permits granted, transmitting all evidence."

Two underlying principles are implied in the above clause; first, that when a city assumes control of its

<sup>1</sup>Oregon, 1919, p. 97, Sec. 301.

<sup>2</sup>See Table III.

<sup>3</sup>Texas, 1917, pp. 68-69, Sec. 153. Virginia, 1915, p. 155, Sec. 188, tenth Louisiana, 1916, p. 104, Sec. 250.

schools, the city superintendent automatically assumes the powers and duties for his district of a county superintendent and so becomes a state official;<sup>4</sup> second, as the chief local official of the schools, the city superintendent is responsible to the centralized state authority for all transactions under this law. The Virginia law carries the principle further, and empowers the superintendent to condemn school buildings and to forbid holding school in same until such time as he "shall certify in writing, to the city school board, that he is satisfied with the condition of such building and with the appliances pertaining thereto."<sup>5</sup>

The Delaware code reverses the process, placing the power of initiative in the office of the superintendent, and the power of approval in the board of education.<sup>6</sup> This principle holds in all transactions concerning buildings and grounds. In preparation of plans for new construction, the power of final approval is vested in the centralized state authority.<sup>7</sup>

Kentucky, Ohio, Michigan and New Jersey permit city boards of education to employ a second executive officer usually known as "business manager" and to delegate to him the execution of all powers and duties that are vested by law in the board of education relative to buildings and grounds. In a few other states these functions may be delegated to the secretary<sup>8</sup> or clerk of the board; usually the law specifies that he shall not be a member of that body.

#### *Course of Study*

In preparation of the course of study there is a decided

<sup>4</sup>See opinion of Supreme Court, p. 41.

<sup>5</sup>Virginia, p. 155, Sec. 198 tenth.

<sup>6</sup>Washington, 1917, p. 78, Sec. 241-245. California, 1915, p. 83, Sec. 1657.

<sup>7</sup>Delaware, 1919, p. 62, Sec. 143.

<sup>8</sup>Delaware, 1919, p. 15, Sec. 36.

difference in opinion among the various states as to whether this power should be vested in a centralized state authority or in the local board of education.<sup>1</sup> In compromising the two extreme views, the city superintendent plays a conspicuous part. In Pennsylvania "The board of school directors..with the advice, assistance and approval of the proper superintendent of schools, shall arrange a course or courses of study..... These courses of study shall conform to any general course of study arranged by the Superintendent of Public Instruction, so far as the local conditions....permit."<sup>2</sup> In the Washington law the superintendent rather than the board prepares the course. The law reads "It shall be the duty of the superintendent....to prepare and issue under the direction of the board of school directors....a course of study for his schools, which course of study must before going into effect, be approved by the state superintendent of public instruction."<sup>3</sup>

The New York law provides that the superintendent shall "prepare the content of each course of study authorized by the board of education" and submit the same to the board of education for its approval.<sup>4</sup>

Wyoming has recognized the desirability of giving the local community a partial control over its course of study; and has vested this local control solely in the superintendent. After providing that the meeting of the State Teachers' Institute shall determine the course of study and that the superintendent of public instruction shall have the power to carry the determination of the institute into effect, the law provides, "That a principal or superintendent of schools in any district who has supervision

<sup>1</sup>See Chart A.

<sup>2</sup>Pennsylvania, 1917, p. 96, Sec. 1698.

<sup>3</sup>Washington, 1917, p. 107, Sec. 333.

<sup>4</sup>New York, 1918, p. 241, Sec. 870-2.

over three or more teachers may amend and change the course of study prescribed by the State Superintendent of Public Instruction in such manner as will, in his judgment, apply more directly to the local conditions of such district—except elimination of the prescribed subjects.”<sup>66</sup>

A glance at Chart A shows the strong influence of the state centralized authority over the city school course of study; and the discussion above indicates a tendency of the state to exercise its influence through the city superintendent.

*Employees—Janitors, Clerks, Etc.*

Many of the state laws do not specifically mention the above named group of employees; the right to so employ them is granted to the board of education under some general clause vesting the control of the schools in the board.

Where the law vests the power of appointment of employees in an appointed executive official, it usually specifies that the board shall determine the number of positions and the salaries to be paid. The Kentucky law is typical:

“Subject to the approval of the board of education as to the number and salaries, the business director shall have power to appoint such engineers, janitors and other employees and agents, as may be necessary for the proper performance of the duties of his department, for whom he shall be responsible and whom he shall have power to remove. He shall appoint such assistants and deputies as may be authorized by the board of education, whose compensation shall be fixed by the board.”<sup>67</sup>

“The Superintendent of Schools...shall have power to appoint clerks, whose number and salary shall be

<sup>66</sup>Wyoming, 1919, p. 32, Sec. 92.

<sup>67</sup>Kentucky, 1918, 213 (469), 2nd Class Cities.

fixed by the board and shall have power to remove same."<sup>7</sup>

The Delaware code requires that "The Superintendent of Schools shall nominate in writing for appointment by the Board of Education,—janitors, and all other regular employees of the Board, shall assign to them their positions, transfer them as the needs of the school require, recommend them for promotion, suspend them for cause, and recommend them for dismissal."<sup>8</sup>

#### *Health Work*

A number of the states require a state authority to prepare rules and instructions for testing and examining the health of children; and require the teachers to do the testing and examining;<sup>9</sup> and to notify the parents of need for medical attention. The distribution of instructions and tests compiled by the state, and the notification of parents concerning defects is often required of the city superintendent.<sup>10</sup> This requirement of the superintendent applies usually, also, when there is professional medical inspection. Sometimes the responsibility of the superintendent is expressed in more general phraseology, as "It shall be the duty of the....city superintendent of schools to coöperate with school boards in promoting medical inspection;"<sup>11</sup> but there is a tendency to make the superintendent of schools responsible for the general direction and supervision of medical inspectors, nurses and assistants.<sup>12</sup>

#### *Pupils—Admission and Suspension*

In connection with legal provisions concerning pupils, the question of suspension stands most conspicuously. The

<sup>7</sup>Kentucky, 1918, 212 (466).

<sup>8</sup>Delaware, 1919, p. 63. (2326) Sec. 147.

<sup>9</sup>For e. g., see: Nevada, 1919, p. 157, sec. 1-3; Utah, 1919, p. 222, Sec. 4546, p. 923, Sec. 4550; Wyoming, 1919, p. 110, Sec. 345, Law passed 1915.

<sup>10</sup>For e. g., see: Wyoming, 1919, p. 111, Sec. 347; Ohio, 1915, p. 244, Sec. 7692-2; Rhode Island, 1917, Sl. p. 2, Ch. 1484, Sec. 1.

<sup>11</sup>North Dakota, 1915, p. 64, Sec. 1346.

<sup>12</sup>New York, 1918, pp. 170-174, Sec. 570-577, p. 241, Sec. 870-4.

earlier law usually placed this power in the hands of the teacher, subject to the approval of the board, and in some cases with power to appeal to the county superintendent whose decision was final.<sup>3</sup> But the tendency seems to be to vest the sole power of suspension in the office of superintendent, subject to the final approval or disapproval of the board of education.<sup>4</sup> The Nevada law makes the permanent exclusion from the public schools of a pupil of compulsory age subject to the consent of the state deputy superintendent of public instruction;<sup>5</sup> and the tendency generally is to place the burden of proof as to the need for suspension more heavily upon the city school officials.<sup>6</sup>

#### *Reports*

Chart A and Table VIII show the responsibility of the superintendent for making or helping to make reports. The two phases of his reporting to the board of education are indicated in the Rhode Island law. "He (the superintendent) shall make a report to the school committee annually and at such other times as it may direct."<sup>7</sup> This second phase is expressed more clearly in the Ohio law,—<sup>8</sup> "Such boards may require superintendent and teachers to report matters the board deem important....." The advisory phase of the superintendent's responsibility is expressed in the Massachusetts law,—"He (the superintendent) shall assist the school committee in keeping its records and accounts and in making such reports as are required by law."<sup>9</sup> But in an act passed lately to provide for the distribution of a portion of the income tax, Massachusetts has placed a much heavier obligation on the su-

<sup>3</sup>For example see: Mississippi, 1918, p. 67, Sec. 4623 (Code of 1906); Idaho, 1917, p. 63, Sec. 86a.

<sup>4</sup>Montana, 1917, pp. 67-68, Sec. 802; Kansas, 1917, p. 144, Sec. 411.

<sup>5</sup>Nevada, 1919, p. 21 Sec. 39-5.

<sup>6</sup>Kansas, 1917, p. 129, Sec. 360. Court Decision.

<sup>7</sup>R. I. S. L., 1918, p. 6, Chap. 1667.

<sup>8</sup>Ohio, 1915, p. 291, Sec. 7785.

<sup>9</sup>Mass., 1914, p. 33. Chap. 444. Act 1911, sec. 1.

perintendent than in the earlier law,—He "shall, under oath, file with the commissioner of education—each year—, a statement containing such data as may be necessary for the purposes of . . . this act".....<sup>10</sup> The independence of the city superintendent from the county superintendent in making reports is indicated in the Wisconsin law which requires that in all cities having a city superintendent of schools and not under the jurisdiction of a county superintendent of schools, the city superintendent shall make the annual report required—directly to the state superintendent.<sup>1</sup>

Table VIII indicates the responsibility that has been placed on the superintendent for reporting to the public. The laws of Connecticut and Maine illustrate two degrees of this responsibility:—The superintendent "shall, one week at least before the annual town meeting, submit to the board or to the committee, as the case may be, a full written report of his proceedings, and of the condition of the several schools during the year preceding, with plans and suggestions for their improvement."<sup>2</sup>

"At the annual town meeting, the superintendent shall make a written report of the condition of the schools for the past year, with a statement of the condition of school buildings, the proficiency made by the pupils, and the success attending the modes of instruction and government thereof."<sup>3</sup>

#### *Rules and Regulations*

Authority to formulate rules and regulations is, with one or two exceptions, vested in the board of education, usually with the proviso that they shall not be inconsistent with those established by the state authority.<sup>4</sup> A few of

<sup>10</sup>Mass., 1916, p. 32. Sec. 8, p. 34. Sec. 15.

<sup>1</sup>Wisconsin, 1915, p. 288, Sec. 464.

<sup>2</sup>Connecticut, 1916, p. 41, Sec. 125.

<sup>3</sup>Maine 1917, p. 31, Sec. 59.

<sup>4</sup>Oregon, 1919, p. 51, Sec. 133.

the western states have definitely placed the power of initiative in the office of the principal or superintendent for making "such rules and regulations as he may deem proper in regard to the studies, conduct and government of the pupils under his charge."<sup>5</sup>

The superintendent's responsibility for enforcing the rules and regulations is specially expressed in the laws of a number of the states (See Chart A).

#### *Supervision*

The Mississippi law requires the school trustees "To visit every school in their district at least once in each month, and examine carefully into its management, condition and wants."<sup>6</sup> Wyoming is less exacting in that the monthly visitation shall be done by a committee appointed by the board from their own number.<sup>7</sup> The specific obligations of the board when they visited the schools and the intimation that they might need assistance in the performance of such duties is indicated in the following:—

"Said board shall also, separately or collectively, together with such persons as they may appoint or invite, visit the schools in the district at least twice a year, and observe the discipline, mode of teaching, progress of pupils, and see that the teachers keep a correct register of the pupils....the branches taught, and such other matters as may be required by law or by the instructions of the state superintendent."<sup>8</sup>

Montana limits the supervisory duty of board members to one visit, each term, to every school.<sup>9</sup> The requirement coordinates nicely with the provision that the superintendent shall have supervision of the schools of the district under the supervision of the board of trustees."<sup>10</sup>

<sup>5</sup>Kansas, 1917, p. 144, Sec. 411. See also Iowa, 1919, p. 85 Sec. 2732, Wyoming, 1919, p. 70, Sec. 228.

<sup>6</sup>Mississippi, 1918, p. 39, Sec. 4525-g.

<sup>7</sup>Wyoming, 1919, p. 41, Sec. 123.

<sup>8</sup>Arkansas, 1914, p. 147, Sec. 7685.

<sup>9</sup>Montana, 1917, p. 56, Sec. 508-18.

<sup>10</sup>Montana, 1909, p. 89, Sec. 150.

Whereas the laws of Montana and Arkansas indicate that the supervisory powers and duties of the superintendent developed as a means of relieving the members of the board; the law of Pennsylvania indicates another process of development,—“The duties of district superintendents shall be the same as those now required of county superintendents.” The gist of his supervisory duties is: “To visit personally as often as practicable, the several schools....under his supervision, to note the courses and methods of instruction and branches taught, to give such directions in the art and methods of teaching in each school as he deems expedient and necessary.” In Delaware one of the requirements, in order that a town or city may be independent of the county superintendent, is that the superintendent of school shall have at least one-half of his entire time free for supervision.<sup>3</sup>

The changing social conditions brought about by the Great War placed in the statutes of Nebraska a new and far-reaching power of the city superintendent.<sup>4</sup>

“The City Superintendent of the city where any private, denominational or parochial school is located, shall inspect such school and report to the proper officers any evidence of the use of any text-books or of any activities, instruction or propaganda therein subversive of American institutions and republican form of government or good citizenship or of failure to observe any of the provisions of this act.”

While the above provision was the result of the tense feeling of a war period, it is indicative of the light in which city superintendents may be held by legislatures when there is urgent or strong need for supervision of educational procedure.

<sup>1</sup>Penn., 1919, p. 73, Sec. 1143.

<sup>2</sup>Penn., 1919, p. 68, Sec. 1123.

<sup>3</sup>Delaware, 1919 p. 160, Sec. 122-5.

<sup>4</sup>Nebraska, Session Laws, 37th Legislature, p. 7, Sec. 6.

*Supplies and Textbooks*

The law governing the selection of text-books is closely parallel to the laws governing the preparation of courses of study (See Chart A). There is a tendency to give teachers and superintendent a good deal of responsibility in the selection of instrumental supplies; and in only two states does the superintendent have other than advisory powers in the selection of supplies for non-instructional purposes. Those states that have state adoption usually make provision for local authorities to select from the state lists.<sup>5</sup> The superintendent has various relationships to the board in the selection of textbooks. In Iowa "The board of education may, to the end that they may be fully advised, consult with the city superintendent or other competent person, with reference to the selections of textbooks."<sup>6</sup> The Massachusetts law requires that the superintendent shall recommend text-books to the school committee.<sup>7</sup> The Vermont law gives the superintendent a veto power in that "The board of school directors shall, subject to the approval of the superintendent, select the textbooks, appliances and supplies to be used in the public schools of the town."<sup>8</sup> The Washington law provides for a text-book commission in "each school district of the first division," which consists of city superintendent, ex-officio chairman, two board members designated by the board, and two lawfully qualified teachers employed in the district and designated by the board. It is the duty of the board of directors to require the introduction and use of all textbooks lawfully adopted by the commission.<sup>9</sup> The Pennsylvania law makes a different provision for teacher

<sup>5</sup>Wyoming, 1919, p. 12, Sec. 25. Colo., 1915, p. 151, Sec. 1750. Oregon, 1919, p. 98, Sec. 302-4.

<sup>6</sup>Iowa, 1919, p. 79, Sec. 2828.

<sup>7</sup>Mass., 1914, p. 33, Sec. 2.

<sup>8</sup>Vt., 1915, p. 29, Sec. 139.

<sup>9</sup>Washington, 1917, p. 106, Sec. 381.

initiative in their selection of textbooks and safeguards the superintendent's authority. The law provides that the "superintendent....shall report in which subjects new textbooks are needed, and after consultation with the teachers under his supervision, what textbooks should be adopted or changed, and unless by a two-thirds vote of the board an adoption or change of textbooks shall not be made without his recommendation."<sup>10</sup>

#### TEACHERS—EXAMINATION AND CERTIFICATION

Of all the functions of city school administration, that of examining and certificating teachers is farthest removed from the absolute control of the board of education. Chart A shows to what extent the state dominates and also the responsibility fixed by law in many of the states on the city superintendent. Only in the larger cities does the board have any degree of independence from the state authority. The Colorado law specifies that "School boards, in districts of first class, (1,000 or more pupils) have entire control of the examination and licensing of applicants to teach in their districts."<sup>11</sup> The traditional influence of a law that once empowered local boards with the sole authority for the exercise of this function appears in the Illinois law which authorizes boards of education in cities of 1,000 to 100,000 population "To examine teachers by examinations, supplemental to any other examinations."<sup>12</sup>

A procedure common to several of the state laws is given in the South Dakota code...."The board shall also appoint two competent persons who, with the superintendent as chairman, shall be styled the committee of the board of education."<sup>13</sup> In some cases the examining

<sup>10</sup>Pennsylvania, 1919, p. 56, Sec. 703.

<sup>11</sup>Colorado, 1917, p. 123.

<sup>12</sup>Illinois, 1916, p. 40, Sec. 127-3.

<sup>13</sup>South Dakota, 1918, p. 93, Sec. 204; Oklahoma, 1919, p. 28 Sec. 133.

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committee issues the certificate;<sup>3</sup> but usually the examining committee recommends to the board of education, which body issues the certificate. In certain of the states the law specifies that the members appointed by the board shall be residents of the city "having practical experience as teachers;<sup>4</sup> or teachers serving full time in the city schools.<sup>5</sup> In Oregon city districts of the first class the law requires that the board of examiners created by the board of education shall have the city superintendent as a member; and the county superintendent as ex-officio chairman.<sup>6</sup>

The transfer of the exercise of this function from the office of the county superintendent to the city superintendent is seen in the Arkansas law,—"The superintendent of the city schools in any such city, duly elected as such by the school board, shall have the authority and perform the duty of a county examiner as provided by law."<sup>7</sup> In Texas the city board of examiners consists of the superintendent and two teachers appointed by him.<sup>8</sup> A few states make the city superintendent practically independent of the board in the exercise of this function. In Wisconsin cities of the third and fourth class "It shall be the duty of the city superintendent of schools....to examine and license teachers."<sup>9</sup> In Pennsylvania "The ....superintendent shall conduct the examinations of teachers for provisional and professional certificates,"<sup>10</sup> and may issue such certificates subject to the provisions of the law.<sup>11</sup> Usually, when the local city board of education has little or no control in this matter, the action of the

<sup>3</sup>South Dakota, 1918, p. 93, Sec. 204.

<sup>4</sup>Washington, 1917, p. 128-130, Sec. 396-401.

<sup>5</sup>Ohio, 1915, p. 313, Sec. 7838.

<sup>6</sup>Oregon, 1919, p. 98, Sec. 302-5.

<sup>7</sup>Ark., 1914, p. 76, Sec. 7559-u.

<sup>8</sup>Texas, 1917, pp. 54-55, Sec. 103.

<sup>9</sup>Wisconsin, 1915, p. 277, Sec. 458-o.

<sup>10</sup>Pennsylvania, 1917, p. 72, Sec. 1148.

<sup>11</sup>Pennsylvania, 1917, p. 75, Sec. 1302; p. 76, Sec. 1300-1307.

superintendent is subject to review by the state executive officer.<sup>12</sup>

Usually the certificate issued by the local board authorities is valid only in the district where issued; and there is a growing tendency to further restrict the issuance of certificates by city school authorities. The Kansas law indicates two types of restriction. Quoting from the law: first, "Cities of the first and second class must recognize certificates and diplomas issued by the State Board of Education and the State Normal Schools;" second, "After September 1, 1916, such certificates (those issued by city authorities) will be valid only in Elementary Schools."<sup>13</sup>

#### TEACHERS—APPOINTMENT

While the majority of the states merely authorize and empower city boards to employ teachers,<sup>1</sup> there is a considerable recognition of the need of vesting the initiative of this duty in the office of the superintendent. The Massachusetts law requires that "The superintendent of schools shall recommend teachers to the school committee."<sup>2</sup> Table III shows how many states have vested the superintendent with this advisory power. Louisiana requires that, "The board shall....select such teachers from nominations made by the parish superintendent;" but, provides "That two-thirds of the full membership of the board may elect teachers without the endorsement of the superintendent."<sup>3</sup> Table V enumerates the states which have attempted by law to vest the sole power of initiative for the selection of teachers, in the office of the city superintendent. In North Carolina the superintendent "must meet with committee for election of teachers, and such

<sup>12</sup>See references II above; also Ark., 1914, p. 76, Sec. 7559-u.

<sup>13</sup>Kansas, 1917, p. 31, Sec. 55; p. 49-50, Sec. 117.

<sup>1</sup>See Chart A.

<sup>2</sup>Mass., 1902-1914, p. 83, Sec. 2.

<sup>3</sup>Louisiana, 1916, p. 115, Sec. 7.

election must have his approval.<sup>4</sup> A new venture of the State is seen in the provision of the Vermont law,—“The state board of education shall appoint the teachers for vocational courses in senior high schools.”<sup>5</sup>

#### TEACHERS—TRANSFER AND PROMOTION

On these two functions the law usually is silent; and where the power is not specifically mentioned, it is assumed that such power is vested in the board of education to be exercised or delegated as the board sees fit. A few of the states<sup>6</sup> have specifically placed the power of initiative in these matters in the office of superintendent; and in Virginia “The division superintendent in cities shall have exclusive authority to assign to their respective positions all teachers and principals employed by the school board and to reassign them at his discretion; provided, that no change or reassignment shall affect the salary of any teacher.”<sup>7</sup>

#### TEACHERS—SUPERVISION AND DISMISSAL

Those states which vest the board of education with authority to dismiss teachers usually safeguard the teacher's rights by requiring that the charges be reduced to writing and that the teacher have the right to be heard before the board, usually with counsel.<sup>8</sup> A further safeguard is indicated in the Massachusetts law which provides that a teacher cannot be dismissed unless “the superintendent shall have given to the school committee his recommendations as to the proposed dismissal.”<sup>9</sup> Table IV names the states that have recognized the influence that the city superintendent should have in the control of the initial step of dismissing a teacher. The Oregon

<sup>4</sup>North Carolina, 1917, p. 58, Sec. IX.

<sup>5</sup>Vermont, 1915, p. 41, Sec. 11.

<sup>6</sup>See Table IV.

<sup>7</sup>Virginia, 1915, p. 191, Sec. 92.

<sup>8</sup>Iowa, 1919, p. 42, Sec. 2782; Ohio, 1915, p. 246, Sec. 7701.

<sup>9</sup>Mass., 1914, p. 26, Sec. 2.

law introduces distinct features. Charges against a teacher on the permanent list<sup>1</sup> shall be preferred by the superintendent either upon his own motion or upon the complaint or criticisms made in writing and filed with him: these written complaints must be signed. In the latter case if the superintendent refuses to act, the complainant may take the case directly to the board. The board must notify the teacher in writing of the charges; the teacher may require hearing to be public or private, and may have counsel; and may appeal from the board's decision within 20 days to the Commission. This Commission consists of three members appointed by the presiding judge of the circuit court.<sup>2</sup> In Missouri the board of education has no power to dismiss a teacher; but may prefer charges against the teacher with the county superintendent who may revoke any county certificate or recommend the revoking of any State certificate.<sup>3</sup> In a few cases, the right of local officials to dismiss a teacher is subject to appeal and final decision by a state authority.<sup>4</sup>

### THE SUPERINTENDENT AND HIS ASSOCIATE EXECUTIVE

Four states permit the board of education to appoint a second executive officer who shall have charge of the business affairs of the schools, who is largely independent of the superintendent and whose powers and duties are defined by law.<sup>5</sup> A few of the states specify that certain of these duties may be delegated by the board to its clerk or secretary. The laws of several states au-

<sup>1</sup>One who has served two full school years. Oregon, 1919, p. 111, Sec. 360.

<sup>2</sup>Oregon, 1919, pp. 111-112, Sec. 359-364. Data applies to cities of 2000 or more population.

<sup>3</sup>Missouri, 1917, p. 20, Sec. 10788; p. 132, Sec. 10945.

<sup>4</sup>West Virginia, 1919, p. 27, Sec. 57.

<sup>5</sup>See page 64.

thorize the appointment of assistant superintendents; and usually leave the enumeration of their duties to the board or superintendent or both.\* The Wisconsin law gives the board of education power "To authorize the superintendent to appoint such assistant superintendents, either for general or special service, as they may deem necessary."†

#### SUMMARY

1. The authority to fix responsibility for the exercise of the various functions of city school administration is vested in the state legislative body.
2. State legislatures have vested various phases of responsibility for the exercise or control of different functions of city school administration in the electorate, the municipal civil authorities, the city board of education, the city superintendent, the county authorities, and the central state educational authorities.
3. Only one state vests the sole authority for the exercise of any single school administrative function in a city civil authority; and the majority of the states have eliminated the municipal civil authorities from any control over school affairs whatsoever.
4. Most of the states have made city school officials free to act according to their own discretion within certain statutory limits; and many have devised means, other than submitting a proposal to popular vote, of keeping school officials close to the public they serve.
5. Most of the states have vested certain powers over city school administration in a centralized state educational authority.
6. The laws indicate two sources of development of the office of city superintendent: (1) cities desired in-

\*Pennsylvania, 1917, p. 71, Sec. 1143; So. Dakota, 1918, p. 93, Sec. 204. Court decision.

†Wisconsin, 1915, p. 351, Sec. 925-116-9.

dependence of county control, and so the powers and duties of the county superintendent as a state official were transferred to the office of the city superintendent; (2) as cities developed and the functions of administration became more highly specialized, the board of education needed an official or officials to assume a part of their responsibility.

7. The conflict of these two fundamental processes of development is the basic cause of uncertainty in legislation and of confusion in defining by law the powers and duties of boards and of superintendents.

8. Many of the states have specified by law the minimum qualifications necessary for filling the office of city superintendent.

9. The law recognizes the right of the state to specify certain powers and duties of the city superintendent,<sup>1</sup> and denies the right of the city board of education to interfere with the superintendent's exercise of these powers and duties.

10. These powers and duties are of three general types:

- a. Advisory.
- b. Initiatory, i. e., the board can act only upon the recommendation or initiation by the superintendent.
- c. Independent, i. e., the superintendent acts as an official of the state; and his acts are not subject to official veto or approval by the board.

<sup>1</sup>Iowa, 1919, p. 40, Sec. 2778. "The board of directors....shall have the power to employ a superintendent of schools....who shall....have such powers and duties as they may prescribe, with such duties and powers as are now or may hereafter be prescribed by the laws of the state."

Idaho, 1917, p. 89. The board is empowered to employ a superintendent of schools, "who shall be the executive officer of the board, with such powers and duties as are now or may hereafter be prescribed by the laws of the state . . ." Italicics by the author.

## CHAPTER IV

### PROVISION MADE FOR THE ADMINISTRATION OF CITY SCHOOLS BY GENERAL LEGIS- LATION FOR CITIES OF THE FIRST CLASS AND BY SPE- CIAL CITY CHARTERS

An examination of the different state codes shows two distinct means of providing for the administration of city schools. One method is to classify all cities of the state, usually according to population, and to make the same law applicable to all cities of the same group. The other method is to pass a general law allowing cities to adopt a home rule plan within certain limitations. This second plan often vests considerable control over school affairs in the municipal civil authorities.

This part of the investigation aims at two things: (a) to discover what specific provisions have been made by legislatures to meet the special administrative needs of individual city school systems; and (b) to learn whether or not city municipal authorities when given legislative powers over schools are contributing to the development of better city school administration.

The study includes 35 typical cities.<sup>1</sup> The school sys-

<sup>1</sup>For this part of the study, the writer had access to the Columbia University Law Library, and the New York Municipal Reference Library, located at the Forty-Second Street Library and the City Hall. Three criteria guided in the selection of cities to be studied: (a) the recency of legislation or adoption of a charter, (b) the charter, if giving any powers over schools to the city council or commission, must be accompanied by the city code of ordinances; (c) the selection should represent different and typical sections of the country. The selection was limited to those volumes on file in the libraries named. A later check by correspondence showed that some of the charter provisions described in this chapter are

tems of six of these operate under general laws applicable to cities of the first class: fifteen operate their schools under special laws or charters; and twelve have special charters that in no way affect their school systems which operate under the general state law.<sup>3</sup> The data for cities of the first class, Group 1, and cities with special charters Group 2, are combined in Chart B (see Appendix I). For cities of Group 1 only such data are tabulated as are specifically mentioned in the law for cities of the first class. For Group 2, only such data as are specifically mentioned in the charter or in the city code of ordinances are included. This plan of study accounts for the many omissions in Chart B and from the tables of this chapter; but it was followed in order to show as clearly as possible what provisions are made for city school administration through legislation of these special types that is not made through the general legislation noted in the preceding chapter. For the omissions, one needs but to refer to the general law, as is indicated in the following: "Said board is hereby vested with all the powers and charged with all the duties provided by the Charter, and also by the general laws of the state for city boards of education."<sup>4</sup>

#### THE BOARD OF EDUCATION

Table XIII shows various plans that have been evolved for selecting a city board of education. Only two cities

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no longer extant. Notably among these are the provisions for Buffalo, N. Y., and Greensboro, N. C. The discussion of those charters as they were adopted in 1916 and 1912, respectively, is retained to illustrate how such variations from generally accepted practice as they represented so soon disappears. Today (1920) the Buffalo schools are administered under the law applicable to New York cities of the first class, and the Greensboro schools are administered by a superintendent and board of education provided for in a new charter.

<sup>3</sup>The two remaining charters including Cincinnati, 1914, and Minneapolis, 1913, were proposed but not adopted.

<sup>4</sup>Los Angeles, California. Charter, 1913, p. 63, Sec. 76, par. 5; Rutland, Vt., Charter, 1915 p. 70 Sec. 190; New Haven, Conn., Charter 1914, p. 58, Sec. 106.

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TABLE XIII. BOARD OF EDUCATION—METHOD OF SELECTION

Showing how members of the board of education secure the office in twenty-one cities of the United States.

<i>Method of Selection</i>	<i>Number of Cities</i>
<i>Group I (6 cities of the first class)</i>	
Appointed by a court .....	1
Appointed by mayor and confirmed by the council.....	1
Elected by popular vote .....	4
<i>Group II (15 Special Charter Cities)</i>	
Appointed by the mayor .....	2
*Appointed by mayor and approved by the council.....	4
Appointed by city commission or council.....	2
*Elected by popular vote .....	6
City Com. serves as board of education.....	1

of the twenty-one allow for ward representation.<sup>1</sup> Ten or practically half provide for election of board members by popular vote. Philadelphia<sup>2</sup> is putting into practice a theory that evidently was designed to place a judicial rather than political type of mind in control of the schools; and Greensboro<sup>3</sup> tried a unique experiment in commission government, that eliminated the board of education entirely and made the superintendent a strong executive subject only to the commission.

Table XIV shows the provision that has been made for the removal of board members in a number of the cities studied. It seems that, if any one principle holds, it is that the appointing power should also have the power of removal. Where members secure office by popular vote, removal by recall and by the courts seem to be equally in favor.

<sup>1</sup>In each case, one city only has ward representation.

<sup>2</sup>Providence, R. I., Charter and Special Laws, 1916.

<sup>3</sup>Pennsylvania, The School Law, 1919, p. 18, Sec. 202.

<sup>4</sup>Greensboro, N. C., Charter, 1912.

TABLE XIV. BOARD OF EDUCATION—REMOVAL

Showing authority empowered to remove members of the board of education.

*Authority empowered to remove  
members of Board of Education*

*No. of Cities*

*Group I*

The courts .....	3
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*Group II*

The Mayor .....	2
The council .....	2
The mayor, subject to appeal to courts.....	1
The recall....popular vote.....	3

In the remaining 9 cities (3 of Group I and 6 of Group II) the writer did not find any specific provision in law or charter for removal of board members: in these cases the general law applicable to smaller cities or to the school system in general would apply (this general law was consulted and bears out these facts).

Table XV shows the size of boards of education. Five (5) is the mode for the 21 cities; and the exact median is less than seven (7). In a few cases the board has *ex officio* membership. In Berkeley one of the five members is a "Councilman appointed to be Commissioner of Finance and Revenue."<sup>1</sup> In Providence, "The Mayor, the president of the common council, and the chairman of the committee on education of the city council" are ex-

TABLE XV. BOARD OF EDUCATION—NUMBER OF MEMBERS

<i>No. of members constituting board.</i>	<i>No. cities</i>
4 .....	1
5 .....	8
7 .....	4
9 .....	2
11 .....	2
12 .....	1
15 .....	1
20 .....	1
(No Board of Education) .....	1

<sup>1</sup>Berkeley, California, Charter, 1909, p. 15, Sec. 8.

<i>Term in years</i>	<i>No. cities</i>
2 .....	5
3 .....	2
4 .....	6
5 .....	3
6 .....	5

officio members of the committee of 20 ward representatives.<sup>3</sup> In Birmingham, the president of the City Commission is also president of the board of education.<sup>4</sup>

Table XVI gives the length of term of board members in the 20 cities studied. Here, the mode and the median is four years, with the range from two to six years.

#### THE SUPERINTENDENT

All of these 21 cities have legislative provision for a superintendent of schools. In this small group, there are six distinct means of selecting the chief school officia' (See Table XVII), although 16 of the 21 vest the board

TABLE XVII. THE SUPERINTENDENT—HOW SELECTED

Group I.	By Board of Education.....	5
	By Board of Education subject to veto or approval on appeal to State Commissioner.....	1
Group II.	By Board of Education.....	11
	By City Commissioner.....	1
	By City Council .....	1
	By Mayor .....	1
	By Popular Vote .....	1

TABLE XVIII. THE SUPERINTENDENT—HOW REMOVED

<i>Group of cities</i>	<i>Authority vested with power to remove Supt.</i>	<i>No. of cities</i>
I	Board of Education..... (No provision for removal.....)	5 1
II	Board of Education .....	6
	Mayor .....	2
	City Commission .....	1
	*Not specified in code or charter.....	6

<sup>3</sup>Providence, Rhode Island, Charter and Special Laws, 1916, p. 184. Sec. 5.

<sup>4</sup>Birmingham, Alabama, Code, 1917, p. 54, Sec. 45.

\*In these six cases the provisions of the general law operate: only the city code and special charters were consulted.

TABLE XIX. THE SUPERINTENDENT—TERM OF OFFICE

Group of cities	Terms in Years	No. cities
I	1 to 4 .....	1
	4 <sup>1</sup> .....	1
	4 .....	4
II	1 .....	1
	1, 1-5 <sup>2</sup> .....	1
	2 .....	2
	4 .....	2
	Not specified <sup>3</sup> .....	9

of education with responsibility for his appointment. Table XVIII shows the provision that has been made for the removal of the superintendent from office.

Only 12 of the 21 cities specify the length of term for which the superintendent may or shall be elected; six make the term definitely four years, while only one requires an annual appointment.

#### POWERS AND DUTIES OF THE SUPERINTENDENT

The powers and duties of the superintendent fall into three main groups: (a) Those in which he has advisory power only; (b) those in which the power of initiative is vested solely in the office of the superintendent; (c) those over which the board of education either has no control or control of merely an advisory nature. A fourth group, purely executive functions, of course, is assumed; and the exercise of these executive functions are sometimes safeguarded by statutory provision. These four groups will be noted in order, briefly.

(1) In a number of the cities the superintendent's advisory function is specified and safeguarded in the law. In New Orleans, "He shall be entitled to participate in the deliberations and debates of said board, but shall

<sup>1</sup>Probationary term of one year; when reappointed term is 4 years.

<sup>2</sup>Probationary term of one year; when reappointed term may be 5 years.

<sup>3</sup>The provisions of the general law for cities govern these cases.

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TABLE XX. ADVISORY POWERS OF THE SUPERINTENDENT

Enumerating certain functions concerning which the general laws or the city codes and charters vest the city superintendent with advisory powers and responsibility.

FUNCTIONS	CITIES
Buildings and Grounds	
Preparation of plans for new buildings.....	Philadelphia, Berkeley, Alhambra
Repairs .....	Philadelphia, Baltimore, Los Angeles, San Francisco.
Curricula .....	New Orleans, Baltimore, San Francisco, Houston.
Selection of:—	
Textbooks .....	New Orleans, Baltimore, San Francisco.
Instructional Supplies ....	San Francisco.
Instruction .....	New Orleans, Houston.

\*This table includes only these instances in the laws relating to cities of the first class or in city codes and charters where the superintendent is specifically required to advise the board on some particular function.

have no vote.”<sup>1</sup> In Los Angeles it is the duty of the superintendent to “attend all sessions of the board, and inform it at each session of the condition of the public schools, school houses, school fund, and other matters necessary for the advancement of education in the city.”<sup>2</sup>

In addition to the general advisory duties of the superintendent mentioned above, the law often mentions certain specific functions concerning which he must advise the board, and on which the board shall not take action until they have considered his advice. These provisions are indicated roughly in Table XX.

### INITIATORY POWERS AND DUTIES OF THE SUPERINTENDENT

Figure 3 in Chart B indicates the large number of functions which various cities have made the superintendent’s office responsible for initiating. The intent of

<sup>1</sup>La., 1919, p. 150, Sec. 66; Ind., 1917, p. 166, Sec. 296; Tenn., 1919, p. 73, Sec. 1142; Ill., 1917, p. 50, Sec. 130.

<sup>2</sup>Los Angeles, Calif., Charter, 1913, p. 64, Sec. 78.

the law seems to be clear that in these cases the board of education shall take no action until the superintendent has placed the matter officially before the board. On the other hand, the law makes it imperative that the superintendent shall take action. Occasionally, the principle is not written into the law whole-heartedly. The Illinois law for cities of 100,000 population is indicative of the compromise that is probably struck when this principle is put into actual practice for the first time,....“Appointments, promotions and transfers of teachers, principals, assistant and district superintendents, and all other employees in the teaching force, shall be made, sites shall be selected, school houses located thereon and plans for the same approved, and text-books and educational apparatus and equipment shall be adopted and purchased by the board of education only *upon the recommendation of the superintendent of schools, unless it be by a two-thirds vote of all the members of the board.*”<sup>1</sup> But for the most part, the superintendent’s obligation is more securely fixed. In Indianapolis his “appointments, promotions and transfers of teachers” stand unless vetoed by a four-fifths vote of the board; and then the board can take no further action until the superintendent makes a new recommendation.<sup>2</sup> In Greensboro the principle held for the appointment of all employees of the schools.<sup>3</sup> In New Haven, the initiatory powers and duties of the superintendent are more firmly fixed in that he shall take such action as he sees fit in changing courses of study, appointing, transferring and dismissing members of the instructional staff, and shall report the same to the board of education at its next meeting. Obviously, this procedure places more

<sup>1</sup>Illinois, 1917, p. 50, Sec. 130. (Italics by the author.)

<sup>2</sup>Indiana, 1917, p. 166, Sec. 296. See also: Missouri, Revised Statutes, 1909, p. 3435, Sec. 11035; Alhambra, Calif., Charter, 1915, p. 49, Sec. 95.

<sup>3</sup>Greensboro, N. C., Charter, 1912, p. 19, Sec. 20.

TABLE XXI. INITIATORY POWERS OF THE SUPERINTENDENT

Functions for whose exercise, the power of official initiative is vested solely in the office of the superintendent; the board's action being confined to consideration of the superintendent's recommendations. (See figure 3, Chart B, for the particular cities concerned.)

Functions	Group I 6 cities	Group II 15 cities
Appointment of:		
Asst. Supt.	5	3
Principals	3	3
Teachers	4	6
Attendance Officers	1	
Other Employees		1
Transfer of:		
Principals	2	1
Teachers	3	1
Attendance Officers	1	
Promotion of:		
Instructional Staff	3	
Attendance Officers	1	
Dismissal		
Asst. Superintendents	4	
Principals	3	1
Teachers	4	5
Attendance Officers	1	
Buildings and Grounds		
Preparation of building plans	1	
Location of school sites	1	
Curricula	4	3
Selection of:		
Textbooks	4	1
Instructional supplies	2	1
Supervision of Schools	4	5
Teachers		
Examination	4	1

responsibility for clear thinking and right action on the part of the superintendent, than if he were obliged to secure the approval of the board before taking any step.\* Table XXI enumerates the functions and gives the number of the 21 cities studied, which have definitely vested the power of official initiative for the exercise of said

\*New Haven, Charter Ordinances, 1914, p. 54, Sec. 107.

function in the office of the city superintendent. The particular cities concerned are indicated by figure 3 on Chart B.

RESPONSIBILITY VESTED SOLELY IN THE OFFICE OF  
SUPERINTENDENT

In different cities, certain functions of school administration have been vested entirely or almost so in the office of the superintendent; in these cases the board of education has little or no control. The superintendent of San Francisco appoints and may dismiss his deputy superintendent.<sup>1</sup> In St. Louis the superintendent has power to appoint and remove clerks within the limits set by the board as to number and salary.<sup>2</sup> In San Francisco the superintendent and his deputies constitute the City Board of Examiners and have full power to "prescribe a standard of efficiency" for each type of certificate to be granted.<sup>3</sup> In Chicago, the superintendent or a person "authorized by him in writing" is the only authority vested with power to issue employment certificates,<sup>4</sup> and the superintendent decides whether a pupil from private or parochial school "has completed sufficient work to entitle him to an eighth grade diploma."<sup>5</sup> The superintendent of Greensboro had "power to discharge any teacher or other employee connected with the schools, for any cause satisfactory to himself, . . . and establish rules and regulations for the government of the schools, *and from his authority, with respect to these matters*, there shall be no appeal."<sup>6</sup> But in case of discharge, he must report such fact to the board of commissioners; and at the request of any commissioner must file "in writing, a full report of his action, and of all reasons in influencing him

<sup>1</sup>San Francisco, Charter, 1911, p. 106, Sec. 2-4; p. 175, Sec. 21.

<sup>2</sup>Missouri, R. S., 1909, p. 3436, Sec. 11035.

<sup>3</sup>San Francisco, Charter, 1911, p. 107, Sec. 6.

<sup>4</sup>Illinois, 1917, p. 117, Sec. 4.

<sup>5</sup>Illinois, 1917, p. 4, Sec. 1-a.

to discharge such employee."<sup>6</sup> In New Haven the superintendent's "monthly reports shall be entered in a suitable book provided for the purpose, and shall be kept as a part of the records of the department."<sup>7</sup> The above illustrations are typical of those powers and duties of the superintendent indicated by figure 1 in Chart B and set forth in Table XXII.

TABLE XXII. POWERS AND DUTIES OF THE SUPERINTENDENT

Enumerating those functions in the exercise of which the superintendent's action or decision is not subject to any action whatsoever by the board.

Functions	Group I	Group II
Appointment		
Clerks (Inst. Dept.)	Indianapolis, Louisville, St. Louis	
Transfer		
Teachers and principals		Berkeley New Haven
Dismissal		
Asst. Superintendent		San Francisco
Clerks (Inst. Dept.)	Indianapolis, Louisville, St. Louis	
Teachers and principals		Greensboro
Attendance Officer		San Francisco
Other Employees		Greensboro
Selection of		
Textbooks and Instructional Supplies	Indianapolis	
Supervision of Schools		San Francisco
Teachers, Examination of		San Francisco
Rules and Regulations, Making of		Greensboro
Reports to		
State Officials	New Orleans, Philadelphia.	
Municipal Officials		Rutland

<sup>6</sup>Greensboro, N. C., Charter 1912, p. 20, Sec. 30.

<sup>7</sup>New Haven, Charter and Ordinances, 1914, p. 54, Sec. 107.

### THE SUPERINTENDENT AS AN EXECUTIVE OFFICER

The previous discussion of the powers and duties of the superintendent indicate the executive nature of his position. In a number of the cities he is considered one of the board's executive officers;<sup>1</sup> in a few cities he is specifically named as *the* executive officer of the board.<sup>2</sup> In the latter group it is usually specified that all instructions or orders of the board of education to principals, teachers or other employees shall be given through the superintendent.<sup>3</sup>

### OTHER EXECUTIVE OFFICERS

Of the 21 cities studied seven make provision for one or more executive officers other than the superintendent and assistant superintendents. These are named in Table XXIII.

TABLE XXIII. EXECUTIVE OFFICERS OTHER THAN SUPERINTENDENTS AND ASSISTANT SUPERINTENDENTS

City	Title of Official
Chicago .....	Business Manager, Attorney
Indianapolis .....	Business Director, Supt of Buildings and Grounds, Librarian
Louisville .....	Business Director
Philadelphia .....	Supt. of Buildings,x Supt. of Supplies.x
St. Louis .....	Com. of School Buildings
Baltimore .....	Supervisor of School Buildings.x
New Haven .....	Inspector of Buildings.x

NOTE:—Those marked with the (x) may be appointed; the others mentioned above must be. In addition, the boards may or must elect a secretary. In many cases the law specified that he shall not be a member of the board.<sup>4</sup> The secretary usually has control of the employees who serve directly under him.<sup>5</sup>

The manner and time of election, the term and tenure of the above-named executive officers are similar, in

<sup>1</sup>Indiana, 1917, p. 166, Sec. 295.

Pennsylvania, 1919, p. 128, Sec. 2223.

Illinois, 1917, p. 48, Sec. 129.

<sup>2</sup>Berkeley, Calif., Charter, 1909, p. 58, Sec. 103.

Alhambra, Colo., Charter, 1915, p. 49, Sec. 93.

<sup>3</sup>Pennsylvania, 1919, p. 25, Sec. 303; Ill., 1917, p. 48, Sec. 129; La., 1919, p. 147, Sec. 64; Mo., 1909, Revised Statutes, p. 3434, Sec. 11033; San Francisco, Charter, 1911, p. 101, Sec. 2.

<sup>4</sup>Missouri, R. S., 1909, p. 3438, Sec. 11041.

their respective fields to the superintendent. In Chicago, Indianapolis and St. Louis they are elected for four year terms;<sup>5</sup> in Louisville for a probationary term of one year, and for four year terms when reappointed.<sup>6</sup> In Philadelphia, the appointment must be made each year.<sup>7</sup> They may be removed by a majority vote of the board, usually with the privilege of a hearing with counsel.<sup>8</sup>

In Chicago and Louisville, the business manager or director exercises approximately the same powers and duties as are vested in both superintendent of buildings and superintendent of supplies in Philadelphia or the business manager and superintendent of buildings in Indianapolis. Table XXIV gives a general analysis of their powers and duties.

In Louisville and Chicago the office of business manager or director combines the duties of the two positions enumerated above.<sup>9</sup> The appointment and removal of subordinates in Chicago is subject to the civil service rules of the city;<sup>10</sup> and in St. Louis and Louisville, the board of education is empowered to institute a competitive system, in which case the executive officer is required to make his appointments from the lists obtained by such competitive examinations.\* In every case, such executive officer is required to "perform such other duties as the board may direct."\*\*

<sup>5</sup>Ill., 1917, p. 48, Sec. 129; Mo., R. S., 1909, p. 3436, Sec. 11036; Ind., 1917, p. 166, Sec. 295.

<sup>6</sup>Ky., 1918, p. 184, Sec. 404.

<sup>7</sup>Pennsylvania, 1919, p. 128, Sec. 2223.

<sup>8</sup>Illinois, 1917, p. 49, Sec. 129.

<sup>9</sup>Ky., 1918, p. 185-187, Sec. 405-409.

<sup>10</sup>Ill., 1917, p. 49, Sec. 129; p. 50, Sec. 130.

<sup>\*\*</sup>Ill., 1917, p. 49, Sec. 129.

Ky., 1918, p. 186, Sec. 407.

\*Mo., R. S., 1909, p. 3436, Sec. 11035.

\*\*Baltimore, Charter, 1915, p. 111, Sec. 100.

## TABLE XXIV. POWERS AND DUTIES OF OTHER EXECUTIVE OFFICERS

Showing in a general way the powers and duties specified by law for the chief executive officers of the board, other than superintendent.

*Superintendent of Buildings*

1. To supervise buildings and grounds—heating, ventilating plumbing, and drainage, usually specified.
2. To appoint and discharge engineers, janitors and other employees of his department, subject to approval of the board.
3. To supervise construction of new buildings.
4. To supervise making of alterations and repairs.
5. To instruct janitors and other workers.
6. To report monthly, annually or oftener—through these reports to advise the board.

*Business Director or Manager*

1. To execute contracts and obligations of the board.
2. To see that contracts are fully and faithfully performed.
3. To advertise for bids; and make all purchases authorized by the board.
4. To have custody of all property not otherwise provided for.
5. To appoint, and remove, subject to approval of the board, all employees not otherwise provided for.
6. To report to the board monthly, annually, and oftener as he sees fit or as the board directs.
7. To meet with the board and superintendent; to have a voice in the deliberations, but not a vote.

## RELATIONS OF THE SUPERINTENDENT TO OTHER EXECUTIVE OFFICERS

It will be noted from Table XXIII that only four of the twenty-one cities considered, require the board of education to elect an executive officer other than superintendent. There is some recognition in the law of the overlapping of functions of executive officers; and in each case a tendency to recognize the office of the superintendent. In Philadelphia, "All plans for new school construction, additions or repairs shall be approved by the superintendent of buildings and shall be submitted to

the superintendent of schools for criticism before submission to the board of public education for adoption."<sup>1</sup> In Chicago, "sites shall be selected, school houses located thereon and plans for the same approved, *only upon the recommendation of the superintendent of schools*, unless it be by a two-thirds vote of all the members of the board."<sup>2</sup> In Providence, the secretary of the board is required by law to keep all accounts "in such form as may be required by the superintendent."<sup>3</sup>

#### **TEACHER PARTICIPATION IN ADMINISTRATIVE FUNCTIONS**

The charter prepared and proposed by Minneapolis, 1913, but which failed of adoption, gives the only comprehensive scheme, found by the writer in the charters and codes of ordinances of the 34 cities considered, for participation by teachers in administrative functions. The clause of the proposed charter follows:

It shall be the duty of the School and Library Board to provide by rule for the election of a board of teachers of the public schools, elected by secret ballot by the teachers and principals thereof. Said board of teachers shall be called together by the board from time to time, at least once every four months, to advise with said board and superintendent of schools upon matters relating to the designation of text-books, adoption of courses of study, methods of teaching, and other matters pertaining to the conduct of the schools. Said meetings shall be public and records thereof kept as public records. Said board of teachers shall have power to pass resolutions and make recommendations upon the above mentioned subjects, but the adoption of such recommendations shall be discretionary with the.... Board and superintendent of schools.—*Minneapolis, Charter, 1913, p. 110, Sec. 192.*

<sup>1</sup>Pennsylvania, 1919, p. 120, Sec. 2231.

<sup>2</sup>Illinois 1917, p. 50, Sec. 120. (Italics by the author.)

<sup>3</sup>Providence, R. I. Code of Ordinances, 1914, p. 190, Sec. 4.

## GENERAL LEGISLATION VS. SPECIAL CHARTERS

The special charters studied are of two general types. One vests more or less control over school affairs in the city council or other municipal civil authorities; the other type considers the board of education a corporate body independent of all control from city civil authority. Thirteen of the fifteen cities of Group II belong to the first type. Chart B shows that in the main this control applies to the budget and to the various functions concerning buildings and grounds.

The powers of the city council are set forth clearly in the enabling act for Baltimore City, Maryland. The law reads, "The mayor and city council.....shall have full power and authority to establish in said city a system of free public schools.....under such ordinances, rules and regulations as they may deem fit and proper to enact and prescribe; they may delegate supervisory powers and control to a board of school commissioners; may prescribe rules for building school houses,.....; and may in general do every act that may be necessary or proper in the premises."<sup>1</sup> The above section gives to the city the whole of the state's power over public schools in Baltimore, subject, of course, to the state's right of repeal<sup>2</sup> The Buffalo charter<sup>3</sup> gave the council a general control over all the affairs coming under the charge of the board of education. The council selected the superintendent; and regulated by resolution or ordinance the preparation of lists of applicants for teaching positions, salaries, terms and conditions of appointment. "The course of study and systems of education shall be established....

<sup>1</sup>Md. Code. Vol. 2, 1911, p. 1746, Sec. 121.

<sup>2</sup>Hooper vs. New, 85, Md., 581; Baltimore vs. Weatherby, 52, Md., 451.

<sup>3</sup>This charter was superceded by the law of 1917, which placed the functions enumerated above under the control of the board of education. See New York Education Law, 1920, p. 249, Sec. 866, par. 5; pp. 251-255, Sec. 868-870.

as the council may prescribe.”<sup>4</sup> In Nashville the board of education cannot make any change in the plan of instruction and organization of the public schools “without first securing the approval of the city council.”<sup>5</sup> In Houston, any applicant for a teaching position in the public schools must first present to the mayor a certificate “of good moral character and of correct and exemplary habits;” the mayor may certify such applicant to the board of examiners, and no appointment may be made by the school trustees without the mayor’s certificate.<sup>6</sup> With the exceptions noted above, the general tendency is to give the board of education full control over all questions other than the budget and school property.

On the other hand, the charters of two of the cities in Group II vest the board of education with full control of the public schools.<sup>7</sup> To these should be added the third group of cities whose charters grant “home rule” in all matters except control of the public schools.

Of this group, five have the commission form of government and one has the city-manager type.

Of the 27 cities, constituting Groups II and III, one gives the city commission entire control of the public

#### CITIES OF GROUP III

Naming the cities studied, whose schools operate under the general school laws; and giving the date on which each charter was adopted.

Ashtabula, Ohio <sup>1</sup> .....	1914	Portland, Oregon.....	1913
Cedar Rapids, Iowa x.....	1909	Richmond, Va. (code and Charter) .....	1910
Denvel, Colorado x.....	1914	Seattle, Wash. x.....	1914
Des Moines, Iowa x.....	1912	Tacoma, Wash. ....	1913
Lincoln, Nebraska x.....	1917	Toledo, Ohio .....	1919
Milwaukee, Wis. (code) .....	1916	Waco, Texas .....	1914

xCommission form of government.

<sup>4</sup>Buffalo, Charter, 1916, Art. 1, pp. 260-267, Sec. 290-304.

<sup>5</sup>Nashville, Charter, 1909, p. 90, Sec. 51.

<sup>6</sup>Houston, Texas, Charter and Ordinance, 1914, p. 306, Sec. 949-951.

<sup>7</sup>Alhambra, Cal., Los Angeles, Cal.

<sup>1</sup>City Manager type.

schools;<sup>3</sup> four give the city council or commission a general control over the schools and specific control over financial and certain instructional and appointive functions;<sup>4</sup> six others give the council or commission a strong control over the budget, and purchase and sale of property;<sup>5</sup> in two, the city council has only a very limited control over the tax levy and purchase and sale of property;<sup>6</sup> two have certain home rule privileges vested in the board of education with no control from municipal civil authorities;<sup>7</sup> the remaining twelve operate under the general laws of the state.

With the exception of the control given to the civil municipal authorities in four cities over certain instructional and appointive functions, the charters and codes of the cities studied fail to show a single provision for city school administration that is not included in the general legislation for city school systems of one or more states.

#### SUMMARY

This study of 34 American cities, whose charters have been adopted during the past decade shows that:—

- (1) Ward representation for members of the board of education has practically disappeared.
- (2) The majority of boards consists of from five to seven members, elected by popular vote for a term of four years.
- (3) In the large majority of cities, the board of education elects the superintendent and may remove him from office.
- (4) The superintendent serves four years; his duties

<sup>3</sup>Greensboro.

<sup>4</sup>Buffalo, Baltimore, Houston, Nashville.

<sup>5</sup>Birmingham, Berkeley, New Haven, Providence, Rutland, San Francisco. (In the latter city control is vested in a board of super-visors for city and county.)

<sup>6</sup>Dallas, Atlanta.

<sup>7</sup>Alhambra, Los Angeles.

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are to advise the board of education; to take the first or initial official action in the exercise of many functions; and to exercise a few specific functions independently of any control from the board of education.

(5) Practically no specific provisions for city school administration are made by special charter that are not also included somewhere in general legislation for city school systems.

## CHAPTER V

### THE JUDGMENT OF LAY AND PROFESSIONAL LEADERS IN EDUCATION AS TO THE LEGAL STATUS THAT SHOULD BE GIVEN TO THE CITY SCHOOL SU- PERINTENDENT

Opinion goes before the law. For, obviously, in a democratic community, only such opinion as is strong enough to command the respect of a majority of the legislative body can ever be enacted into law. And in shaping the body of public opinion on the problems involved in any profession near to the public welfare, it is the members of the trade, business or profession whose thought and experience must give direction to the public judgment. It is, then, to the men and women of today who are most intimately connected with the city school systems, that we must look for guidance in shaping any policy or expression of theory as to the best scheme of legal organization for city school administration.

To secure such judgment the "form" or questionnaire given below was prepared. It was designed, particularly, to call attention to and secure a judgment concerning the three phases of an administrative function, viz., (1) taking the first *official* step or *initiative*, (2) *approval* of the plan or recommendation, (3) actually putting the plan or recommendation into operation, i. e., *executing* it. Opinion was also sought on the vital question as to whether any revision of the law controlling city school administration should recognize the right or responsibility of teachers to participate in the exercise of any administrative function.

Name \_\_\_\_\_

City \_\_\_\_\_

Position \_\_\_\_\_

State \_\_\_\_\_

# WHAT SHOULD BE THE LEGAL STATUS OF THE CITY SCHOOL SUPERINTENDENT?

This form is designed to secure representative judgment as to the specific responsibility, that should be fixed by law, upon superintendent, teachers and board of education, in the exercise of certain functions of city school administration.

Read each function, and check (*V*) the column or columns which you believe represent the responsibility that should be fixed by law for initiating the function. Decide whether the superintendent or board of education should actually do the thing i. e., execute, and check accordingly. Decide whether the function should be approved before execution or after execution; and check for approval. If you believe that teachers should participate, check that respective column. If any part of the form is vague, make a note of same and explain on back of sheet.

FUNCTIONS of City School Administration	Phases of Responsibility in the Exercise of Each Function That Should be Determined by Statute.									
	Sup't. or Executive Officer subordinate to Sup't. should:			Board of Education should:				Teachers should:		Remarks or Criticism
	Initiate •	Execute •	Approve •	Initiate	Execute	Approve before execution •	Approve after execution •	Initiate	Participate •	
1. Appointment of:										
a. Assistant superintendents										
b. Business Manager										
c. Secretary to Board										
d. Principals										
e. Teachers										
f. Janitors										
g. Clerks										
h. Attendance officers										
i. Health, recreational and social workers										
2. Transfer of:										
a. Teachers, principals and assistant superintendents										
b. Health, recreational and social workers										
c. All other employees										
3. Dismissal of:										
a. Teachers, principals and assistant superintendents										
b. Health, recreational and social workers										
c. All other employees										
4. Preparation of the Budget										
5. Attendance:										
a. Taking of census										
b. Enforcing of compulsory attendance laws										
6. Buildings and Grounds:										
a. Purchase and sale of:										
b. Preparation of plans for construction										
c. Supervision of construction										
d. Rent										
e. Maintenance—repairs										
7. Curricula: Determination of:										
a. Subjects to be included										
b. Content of subjects										
8. Making of rules and regulations governing:										
a. Routine matters of school procedure										
b. New policies										
9. Selection of:										
a. Textbooks										
b. Instructional supplies										
c. Other supplies										
10. Direction and Supervision of:										
a. Medical inspection										
b. Classroom instruction										
c. Civic center activities										
d. Evening schools										
e. Continuation schools										

\*"Initiate" includes: to nominate, to recommend, to take the first step or make the first official move. "Approval before execution" means the responsibility for deciding beforehand whether or not the particular thing shall be done, i. e., executed. "Execute" means the actual doing of the thing, e. g., the actual conversation or correspondence with a teacher in reference to her appointment, the acting as agent for the city in the purchase of land, the directing of the making of repairs. "Approval after execution" includes (a) Approval of routine matters, e. g., approval of bills, (b) Right of review, as a means of checking or guiding future action of executive officers, (c) The settlement of questions on appeal. "Participate" is used herein to include any recorded judgment of teachers for the information and possible guidance of superintendent, of board of education, or both.

## JUDGMENT OF LEADERS

The judgment was sought of men in education, of superintendents, and of other leaders prominent because of their influence in thought on school administrative problems. The "form" was mailed to 136 superintendents and other educational leaders;<sup>1</sup> 105 replies were received. The first hundred to come in were tabulated, the last five were omitted; their inclusion would have had little or no effect on the results as given. Of the 100 men whose replies were used, 91 were city superintendents, and the others were either university teachers of school administration or members of state departments of education. With possibly one or two exceptions all of the non-superintendents had at one time or another been city superintendents. The superintendents represented cities in size from 2500 to nearly a million and from 37 states of the Union. The "form" was also mailed to 100 other superintendents with a request that they ask their board of education or a member of the board to check it and return it; also the Secretary of the State Federation of School Boards of New Jersey mailed copies to about 50 boards of education, asking that some member check the same and return to the writer. Forty-seven replies were received from the first group and nine from the second. These were tabulated together. Only 51 were checked and one of these being checked only for "approval" was omitted; the remainder wrote their opinions or judgment on the back of the "form." The replies received represent cities of varied size from 15 states. The data from professional and

<sup>1</sup>Three factors determined the selection of men asked to contribute to the study:—

- (a) Their experience and reputation for having helped build successful school systems.
- (b) Representative cities from each of the 48 states.
- (c) Representative cities ranging in population from 5000 to more than a million.

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TABLE XXV. RESPONSIBILITY FOR OFFICIAL INITIATIVE

Showing the per cent. of 100 educational leaders who would vest the sole power of official initiative: (a) in the superintendent, (b) in the board of education, (c) in both board and superintendent, (d) in teachers, and (e) the per cent. not checking for initiative.

	Administrative functions	Per cent. who would vest the sole power of official initiative in				
		Supt.	Bd.	Bd. & Teach-	Non-	Class'd
1. Appointment of:						
a. Assistant Supts.	93	..	..	..	..	7
b. Business Manager	62	28	1	..	..	0
c. Secretary to Board	24	67	..	..	..	9
d. Principals	97	..	..	..	..	3
e. Teachers	98	..	..	..	..	2
f. Janitors	72	12	..	..	..	16
g. Clerks	89	2	..	..	..	9
h. Attendance Officers	94	2	..	..	..	4
i. Health, Recreational and Social Workers	95	..	..	..	..	5
2. Transfer of:						
a. Teachers, Principals	99	..	..	..	..	1
b. Health, Recreational and Social Workers	95	1	..	..	..	4
c. All other Employees	76	10	..	..	..	14
3. Dismissal of:						
a. Teachers, Principals and Asst. Supts.	91	1	..	..	..	8
b. Health, Recreational and Social Workers	89	3	..	..	..	8
c. All other Employees	76	6	3	..	..	15
4. Preparation of the Budget	82	2	1	..	..	15
5. Attendance:						
a. Taking of Census	78	16	..	..	..	6
b. Enforcing of Compulsory Attendance Laws	88	6	2	..	..	4
6. Buildings and Grounds:						
a. Purchase and Sale of	45	35	5	..	..	15
b. Preparation of Plans for Construction	69	15	1	..	..	15
c. Supervision of Construction	42	41	1	..	..	16
d. Rent	48	32	1	..	..	19
e. Maintenance—Repairs	63	21	3	..	..	13

Administrative functions	Per cent. who would vest the sole power of official initiative in				
	Supt.	Bd.	Bd. & Teach-	Non-	
			Supt.	ers	Class'd
7. Curricula: Determination of:					
a. Subjects to be included	95	..	1	..	4
b. Content of Subjects	85	..	2	8	5
8. Making of Rules and Regu- lations Governing					
a. Routine Matters of School Procedure	91	1	1	2	5
b. New Policies	79	..	9	..	12
9. Selection of:					
a. Textbooks	87	..	..	6	7
b. Instructional Supplies	87	..	..	7	6
c. Other Supplies	79	6	..	1	14
10. Direction and Supervision of					
a. Medical Inspection	89	1	2	..	8
b. Class Room Instruction	91	..	..	3	6
c. Civic Center Activites	82	1	2	2	13
d. Evening Schools	88	1	..	1	10
e. Continuation Schools	87	1	1	1	10

lay leaders will be treated first separately, and then together or in contrast.

In using a questionnaire two difficulties are manifest: (1) the one who checks to show his judgment may not be entirely clear as to the meaning of any particular item of the "form;" (2) the author may not read aright the judgment or opinion which the person who checked wished to convey. In order to safeguard against this second danger as far as possible, an attempt was made to analyze the replies in as much detail as possible and in the terms or wording of the questionnaire. This analysis is contained in the Code for Tabulating Form I, and is given in the appendix with Table C which shows in detail the distribution of opinion of educational leaders concerning the responsibility for the exercise of each of the 35 functions named.

#### RESPONSIBILITY FOR OFFICIAL INITIATORY ACTION

The first question to be considered is whether the responsibility for officially initiating action in the exercise of each function should be vested in the board of education, in the office of the superintendent, in both, or in the teaching staff. Table XXV gives the answer of the educational leaders to this question for each of the sub-items in each of the ten functions listed on the questionnaire.

The third column of Table XXV shows very little tendency to make both superintendent and board responsible for initial action; the chief suggestion of such a tendency is in the initiating of new policies.

With the exception of the appointment of business manager, secretary to the board, and janitors, and the various functions pertaining to "buildings and grounds" more than seventy-five per cent. would place the power of initiating action solely in the office of superintendent. In fact, 90 per cent. or more would vest the superintendent with the sole power for officially initiating action in the exercise of the following functions:—

1. Appointment of assistant superintendents, principals, teachers, attendance officers, health, recreational and social workers.
2. Transfer of teachers, principals, assistant superintendents, health, recreational and social workers.
3. Dismissal of teachers, principals and assistant superintendents.
4. Determination of subjects to be included in the curricula.
5. Making of rules and regulations governing routine matters of school procedure.
6. Supervision of classroom instruction.

Table XXV-A gives special consideration to those

TABLE XXV-A. INITIATORY POWERS OF THE BOARD OF EDUCATION

Showing the apparent uncertainty that exists among educational leaders as to where the responsibility should be placed for taking official initiative in the exercise of the eight functions on which there was less than 75 per cent. agreement.

	Per cent. of judges who would vest the power of official initiative in:			
	Supt. Bd. of Ed.	Supt. & Bd.	Unclassified	
1. Appointment of:				
b. Business Manager	62	28	1	9
c. Secretary to Board	24	67	..	9
f. Janitors	72	12	..	16
5. Buildings and Grounds				
a. Purchase and Sale of	45	35	5	15
b. Preparation of plans for Construction	69	15	1	15
c. Supervision of Construction	42	41	1	16
d. Rent	48	32	1	19
e. Maintenance—Repairs	63	21	3	13

functions in whose exercise, less than 75 per cent. of the judges agree on responsibility for initial action.

For four of the above functions, a majority would place the power of initiative in the office of superintendent, viz.: the appointment of business manager and of janitors, the preparation of plans for construction and maintenance-repairs. In only one function, the appointment of secretary to the board, does a majority clearly favor giving the board of education sole power of initiatory action. There is no clear majority of opinion as to whom should be legally responsible for initiating action in the purchase, sale, and rent of buildings and grounds, and in the supervision of construction. The large number of unclassified answers is due in part to the expressed opinion of a number of judges that in these functions the power of initiative should be vested in an executive officer other than the superintendent.

There is little evidence favoring giving the sole power of initiative to teachers: the only indication of a tendency in this direction is the vote of six per cent. to make teachers solely responsible for selection of textbooks; seven per cent. for the selection of instructional supplies; and eight per cent. for the determination of the content of subjects.

#### INDEPENDENT RESPONSIBILITY OF BOARD OR SUPERINTENDENT

Before considering the division of powers further, it is necessary to note the opinion that would make the board or superintendent solely responsible and independent of the other in the exercise of a particular function. Column 1 and column 2 of Table C represents this opinion respectively for the superintendent and the board. Those functions for whose exercise 10 per cent. or more of the judges would make the superintendent solely responsible and independent of the board are listed in Table XXVI-A, and those for whose exercise sole responsibility would be placed in the board of education are listed in Table XXVI-B.

#### RESPONSIBILITY FOR APPROVAL

The checking of the questionnaire for "approval" was not as clear as for "initiative." However, three distinct phases of "approval" appear: (1) Those functions for whose exercise the initiatory and executive powers are vested in the superintendent whose action after it is taken may be subject to approval or reversal by the board. (2) the initiatory powers are vested in the superintendent but the approval of the board is necessary before any executive action can be taken. (3) the initiatory powers are vested primarily in the board, but the superintendent's approval is necessary before any executive action may be

TABLE XXVI-A. FUNCTIONS FOR WHOSE EXERCISE, 10 PER CENT. OR MORE OF THE JUDGES WOULD MAKE THE SUPERINTENDENT SOLELY RESPONSIBLE.

	Functions	Per cent. of Judges
2.	Transfer of:	
	a. Teachers, principals and asst. supts.....	22 per cent.
	b. Health, recreational and social workers .....	22 "
	c. All other employees .....	17 "
5.	Attendance	
	b. Enforcing compulsory attendance laws..	17 "
	a. Taking of census .....	13 "
7.	Curricula, Determination of:	
	a. Subjects to be included.....	12 "
	b. Content of subjects .....	22 "
8.	Making of rules and regulations governing	
	a. Routine matters .....	15 "
9.	Selection of:	
	a. and c. Textbooks, and other supplies.....	11 "
	b. Instructional supplies .....	14 "
10.	Supervision of	
	a. Medical inspection .....	15 "
	b. Classroom instruction .....	31 "
	c. Civic center activities .....	14 "

TABLE XXVI-B. FUNCTIONS FOR WHOSE EXERCISE, 10 PER CENT. OR MORE OF THE JUDGES WOULD MAKE THE BOARD OF EDUCATION SOLELY RESPONSIBLE

	Functions	Per cent. of Judges
1.	Appointment of Secretary to Board.....	46 per cent.
5.	Buildings and Grounds	
	a. Purchase and sale.....	13 "
	c. Supervision of construction .....	25 "
	d. Rent .....	18 "
	e. Maintenance—Repairs .....	11 "

taken. The judgment of educational leaders on the phases of power of approval is given in Table XXVII.

The principle of giving the board initiatory powers and requiring the superintendent's approval before executive action is taken is confined almost exclusively to those functions concerning which 25 per cent. or more of the judges disagreed as to the proper placing of responsibility for official initiative. (See Table XXV-A.)

TABLE XXVII. THE POWER OF APPROVAL

An analysis of the replies from 100 educational leaders to show :  
 (1) How many would vest the superintendent with power of initiative, subject to approval by the board either after (A) or before execution (B); (2) How many would make any initiatory action of the board subject to the approval of the superintendent before execution; (3) How many did not differentiate between initiatory and approval phases of each function.

Administrative Functions	Supt. Init.	Bd. Init.	* N on- Cl ass.	
	After Exe.	Bd. Ap.		
	Before Exe.	Supt. Ap. B'f Ex.		
	(A)	(B)	(A B)	
1. Appointment of				
a. Asst. Supts.	22	61	83	.. 17
b. Business Manager	11	41	52	17 31
c. Secretary to Board	4	13	17	17 66
d. Principals	38	45	83	.. 17
e. Teachers	50	33	83	.. 17
f. Janitors	38	29	67	12 21
g. Clerks	48	31	79	5 16
h. Attendance Officers	39	38	77	1 22
i. Health, Recreational and Social Workers	41	40	81	.. 19
2. Transfer of :				
a. Teachers, Principals and and Asst. Supt.	60	14	74	.. 26
b. Health, Recreational and Social Workers	55	13	68	.. 32
c. All other Employees	47	9	56	7 37
3. Dismissal of :				
a. Teachers, Principals and Asst. Supts.	21	52	73	1 26
b. Health, Recreational and Social Workers	25	47	72	2 26
c. All other Employees	25	37	62	5 33
4. Preparation of the Budget	10	53	63	2 35
5. Attendance :				
a. Taking of Census	36	22	58	8 34
b. Enforcing of Compulsory Attendance Laws	48	13	61	3 36
6. Buildings and Grounds				
a. Purchase and Sale of	..	20	20	24 56
b. Preparation of Plans for Construction	3	34	37	14 49

	Functions	Bd. Ap.	Supt.Ap.	*	Non-Class.	
		After	Before	B'f		
		Exe.	Exe.	Ex.		
	(A)	(B)	(A B)			
	Administrative		Supt. Init.	Bd. Init.		
c.	Supervision of Construction	9	25	34	21	45
d.	Rent	4	32	36	17	47
e.	Maintenance—Repairs	11	29	40	10	50
7.	Curricula: Determination of					
a.	Subjects to be included	48	34	82	..	18
b.	Content of subjects	40	24	64	..	36
8.	Making of Rules and Regulations governing					
a.	Routine Matters of School Procedure	46	26	72	..	28
b.	New Policies	19	55	74	..	26
9.	Selection of:					
a.	Textbooks	44	26	70	2	28
b.	Instructional Supplies	47	22	69	2	29
c.	Other Supplies	41	23	64	9	27
10.	Direction and Supervision of:					
a.	Medical Inspection	40	28	68	..	32
b.	Classroom Instruction	40	12	52	..	48
c.	Civic Center Activities	29	34	63	2	35
d.	Evening Schools	31	44	75	..	25
e.	Continuation Schools	31	44	75	..	25

The last column includes all cases where the sole exercise of a function was vested in one party, either board or superintendent, and all other cases where there was no check for "approval" or where the idea of "approval" was not delegated solely to either the board or superintendent.

In the exercise of three functions, half or more of the judges would give the superintendent power to initiate and execute subject to the board's approval after execution. These are: the appointment of teachers; the transfer of teachers, principals and assistant superintendents; and the transfer of health, recreational and social workers. A majority would vest the superintendent with power to initiate but subject to the board's approval before execution in the following: the appointment of assistant superintendents; the dismissal of teachers, principals and assistant superintendents; the preparation of

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the budget; the introduction of new policies. The combined figures of columns A and B show that, with the exception of the appointment of secretary to the board and of the five items under buildings and grounds, a majority of the 100 would place the power of initiative in the office of superintendent; and the power of approval in the board of education.

### RESPONSIBILITY FOR EXECUTIVE ACTION

Table XXVIII shows the distribution of check marks for execution of each function. Neither board nor superintendent has a majority of votes for executing the following:

Appointment of business manager,  
Preparation of the budget,  
Making maintenance-repairs.

A majority would give the board of education power to execute in the:

Appointment of secretary to the board,  
Purchase, sale and rent of buildings and grounds,  
Preparation of plans for new construction,  
Supervision of construction.

For all the remaining functions a majority would vest the superintendent with all executive functions.

### THE JUDGMENT OF MEMBERS OF BOARDS OF EDUCATION

The returns from members of boards of education showed less consensus of opinion than the replies from superintendents and other educational leaders.<sup>1</sup>

A few of the replies came unchecked. One of these expressed clearly and tersely an opinion that seems to be held quite generally and is still a basic principle in the laws of many of the states. The paper reads, . . . "I . . . return the blank with the observation that I think the superintendent should legally be the employee of the

<sup>1</sup>Compare tables D and C (appendix).

TABLE XXVIII. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

Showing the per cent. of 100 educational leaders who would:

- (a) vest the superintendent with sole executive powers;
- (b) vest the board of education with sole executive powers;
- (c) who did not check blank for executive phase of the function.

	Administrative Functions	Executive powers are vested in:		Non-Classified
		Supt.	Board	
1.	Appointment of			
a.	Asst. Supts.	63	12	25
b.	Business Manager	43	28	29
c.	Secretary to Board	13	63	24
d.	Principals	68	12	20
e.	Teachers	70	11	19
f.	Janitors	56	15	29
g.	Clerks	66	11	23
h.	Attendance Officers	64	15	21
i.	Health, Recreational and Social workers	68	11	21
2.	Transfer of:			
a.	Teachers, Principals and Asst. Supts.	86	3	11
b.	Health, Recreational and Social Workers	82	5	13
c.	All other Employees	65	12	23
3.	Dismissal of:			
a.	Teachers, Principals and Asst. Supts.	56	23	21
b.	Health, Recreational and Social Workers	57	21	22
c.	All other Employees	53	21	26
4.	Preparation of the Budget	41	24	35
5.	Attendance:			
a.	Taking of Census	58	24	18
b.	Enforcing of Compulsory Attendance Laws	66	20	14
6.	Buildings and Grounds			
a.	Purchase and Sale of	17	68	15
b.	Preparation of Plans for Construction	27	50	23
c.	Supervision of Construct.	29	54	17
d.	Rent	27	51	22
e.	Maintenance—Repairs	33	46	21

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	Administrative Functions	Executive power are vested in:	Supt.	Board	Non- Classified
7.	Curricula: Determination of				
a.	Subjects to be Included	81	1		18
b.	Content of Subjects	81	1		18
8.	Making of Rules and Regu- lations Governing				
a.	Routine Matters of School Procedure	78	5		17
b.	New Policies	66	3		31
9.	Selection of:				
a.	Textbooks	71	8		21
b.	Instructional Supplies	74	6		20
c.	Other Supplies	60	14		26
10.	Direction and Supervision of:				
a.	Medical Inspection	70	8		22
b.	Classroom Instruction	78	1		21
c.	Civic Center Activities	71	6		23
d.	Evening Schools	70	7		23
e.	Continuation Schools	70	5		25

School Committee and should act as its agent in performing the functions placed under his management by the School Committee, and that neither the superintendent nor the teachers should perform any functions except as directed generally or specifically by the School Committee." The statement implies what another member puts in words, namely, "It is well, however, for the board to give the Superintendent a wide scope of authority with the privilege of withdrawing same if abused."

POWERS EXERCISED INDEPENDENTLY

Twenty-five per cent. or more of the board members would make the board of education solely responsible for:—

1. The appointment of business manager, secretary to the board of education, janitor and clerks.
2. Taking the census.

3. Buildings and grounds:—

Purchase and sale of

Preparation of plans for new construction

Supervision of new construction

Rent and repairs.

The functions enumerated above are with one addition the same as enumerated in Column B, Table XXIX which shows the judgment of a majority of board members as to where the responsibility for official initiative should be placed.

POWERS OF APPROVAL

An analysis of the data of Table D shows that from 34 to 88 per cent. of the board members failed to check the respective items for approval. Twenty-eight per cent. would make the board responsible for "preparation of plans for new construction" subject to the approval of the superintendent. But in no other function was there any tendency on the part of the board members to make their action subject to the superintendent's approval. Table XXX enumerates the functions for the exercise of which a majority of board members would make the superintendent responsible for taking the official initiatory action subject to the board's approval either before or after execution.

RESPONSIBILITY FOR EXECUTIVE ACTION

Current educational literature assumes that the superintendent is the executive head of the school system; but as yet the assumption is an ideal that is only partially verified by fact or practice. The truth of this latter statement is indicated in Table XXXI which shows that the majority of members of boards of education consider the superintendent as being responsible for executive action in the exercise of only certain functions.

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TABLE XXIX. RESPONSIBILITY FOR OFFICIAL INITIATIVE

Enumerating the functions, in the exercise of which, 50 per cent. or more of the 50 school board members would place the power of official initiative in (A) the superintendent's office, (B) with the board of education.

(A)	Per Cent	(B)	Per Cent.
Appointment of:		Appointment of:	
Assistant Superintendent	66	Business Manager	60
Principals	82	Secretary to Board	74
Teachers	84	Janitors	50
Clerks	54	Buildings and Grounds	
Attendance Officers	74	Purchase and Sale of	76
Health, Recreational and		Preparation of Plans	50
Social Workers	52	Supervision of Construc-	
Transfer of:		tion	66
Instructional Staff	88	Rent	60
Health, Recreational and		Maintenance Repairs	54
Social Workers	74		
Dismissal of:			
Instructional Staff	84		
Health, Recreational and			
Social Workers	72		
All other Employees	54		
Enforcing Comp. Att. Laws	66		
Curricula: Determination of			
Subjects to be In- cluded	86		
Content of Subjects	78		
Making of Rules and Regu- lations Governing:			
Routine Matters	88		
New Policies	62		
Selection of:			
Textbooks	84		
Instructional Supplies	86		
Other Supplies	76		
Direction and Supervision of			
Medical Inspection	68		
Classroom Instruction	88		
Civic Center Activities	86		
Evening Schools	82		
Continuation Schools	74		

TABLE XXX. POWERS OF APPROVAL.

Enumerating those functions for whose exercise 50 per cent. or more of the board members would give the board of education power to approve the action of the superintendent either before or after execution of the act.

Function	Board approves after superin- tendent ex- ecutes.	Board approves before super- intendent exe- cutes.	Total per cent. distinguishing between initiat- ing and execut- ing.
<b>Appointment of:</b>			
Principals	14	40	54
Teachers	20	32	52
<b>Transfer of:</b>			
Teachers, Prin., etc.	24	34	58
Health Workers, etc.	20	30	50
<b>Dismissal of:</b>			
Teachers, Principals	8	46	54
<b>Curricula, Determination of</b>			
Subjects to be included	28	30	64
Content of Subjects	26	30	56
<b>Selection of:</b>			
Textbooks	30	32	62
Instructional Supplies	30	22	52
<b>Supervision of:</b>			
Civic Center Activities	28	36	64
Evening Schools	20	32	52

The following table shows, first, that for 15 of the 35 functions enumerated in the questionnaire, the majority of the 50 board members have no clearly defined attitude as to where executive responsibility should be placed. Secondly, the data show that the majority would limit the superintendent's executive responsibility to certain functions closely related to instructional activities; and would hold the board of education responsible for executive action concerning all functions closely related to financial or material aspects of the school activity, e. g., appointment of janitors, preparation of the budget and

TABLE XXXI. RESPONSIBILITY FOR EXECUTIVE ACTION

Enumerating those functions for which 50 per cent. or more or the 50 board members would make (A) the superintendent or (B) the board of education responsible for executive action.

Functions	Per cent. who would vest executive responsibility in (A) Supt. (B) Bd. of Ed.
Appointment of:	
Business Manager	.. 62
Secretary to Board	.. 76
Janitors	.. 68
Clerks	.. 50
Transfer of:	
Teachers, Principals, etc.	56 ..
Preparation of Budget	.. 54
Taking of Census	.. 52
Building and Grounds	
Purchase and Sale of	.. 90
Preparation of Plans	.. 76
Supervision of Construction	.. 78
Rent	.. 68
Maintenance—Repairs	.. 74
Curricula, Determination of:	
Subjects to be Included	62 ..
Content of Subjects	54 ..
Making Rules and Regulations	
Governing Routine Matters	58 ..
Selection of:	
Textbooks	58 ..
Instructional Supplies	58 ..
Supervision	
Classroom Instruction	74 ..
Civic Center Activities	70 ..
Evening Schools	56 ..

repairing of school property. Insufficient as the data from only 50 board members are, yet they are enough to indicate the necessity of determining just where responsibility for such action should be placed.

#### TEACHER PARTICIPATION

The questionnaire defined *Participate*—"to include any recorded judgment of teachers for the information and possible guidance of superintendent, of board of educa-

## TABLE XXXII. TEACHER PARTICIPATION.

Naming the functions in the exercise of which, 25 per cent. or more of either group would approve teacher participation.

Functions	Per cent. of professional leaders favoring participation	Per cent. of lay leaders favoring Teacher Participation
Preparation of the Budget	28	8
Enforcing Comp. Att. Laws	35	16
Curricula. Determination		
Subjects to be Included	80	42
Content of Subjects	76	42
Making of Rules and Regulations		
Governing:		
Routine Matters of School		
Procedure	69	44
New Policies	62	44
Selection of:		
Textbooks	77	46
Instructional Supplies	70	42
Other Supplies	48	28
Supervision of:		
Medical Inspection	28	20
Classroom Instruction	46	48
Civic Center Activities	49	38
Evening Schools	39	32
Continuation Schools	39	26

tion, or both." Many in both groups would also give teachers authority to *initiate* official action in certain functions. A majority of the professional leaders favored teacher participation in: the determination of subjects to be included and the content of the curricula; the making of rules and regulations governing routine matters of school procedure, and new policies; and the selection of textbooks and instructional supplies. More than 40 per cent. of the members of school boards took the same position as to teacher participation in each of the above named functions. Both lay and professional leaders practically agreed concerning the functions, in which teacher participation should be encouraged; however, in each case, a

larger percentage of professional than of lay leaders approved such participation. The per cents. are shown in Table XXXII.

Those functions for whose exercise 25 per cent. or more of the professional group favored giving teachers the right to initiate action included: determination of the content of subjects, making of rules and regulations governing new policies, and selection of textbooks and instructional supplies.

#### SUMMARY

The foregoing analysis of the returns from lay and professional leaders shows little consensus of judgment in favor of vesting the sole responsibility for any administrative function either in superintendent or board of education alone. In fact, the majority of the professional group did not favor giving either the board or superintendent sole responsibility for the exercise of any administrative function; and the majority of the lay group favored making the board of education solely responsible for the exercise of only three functions, namely: the appointment of secretary to the board, the purchase sale and rent of buildings and grounds, and the supervision of new construction.

Both groups differentiated between the three phases of an administrative act. Their closest agreement was on the necessity of making either the board or the superintendent solely responsible for taking the first initial action. They did not agree so closely in differentiating between executive and approval phases. The professional group differentiated the approval phase from the other two phases in all functions except the repair of buildings and the purchase and sale of buildings and grounds; and differentiated the executive from the initiatory and approval phases in each of the 35 functions. The lay group

distinguished less clearly between executive and approval phases of a function. The majority of them checked for "approval" in only 12 and for executive responsibility in only 20 of the 35 functions.

The modal judgment gives a fairly complete picture of the judgment of the two groups, and the responsibility that they would vest in the superintendent and board of education, respectively. The majority of the professional group would make the superintendent responsible for taking the initial step and also for executive action with the board approving either before or after action in each of the 35 functions with the exception of appointment of secretary to the board of education and the various questions pertaining to buildings and grounds. The appointment of the secretary they would leave solely with the board of education, and for the various questions pertaining to buildings and grounds they would make the superintendent responsible for the initial action and leave the executive action in each of the five functions to the board of education.

The lay group would make the superintendent responsible for supervision of instruction, and would make the board of education responsible for the appointment, transfer and dismissal of all workers connected solely with the material side of the school plant, for all functions pertaining to buildings and grounds, and for the taking of the census. For all other functions they would place the power of official initiative in the office of superintendent, but differ as to the approval of administrative acts.

Throughout the chapter there is a tendency to distinguish between those functions that apply directly to instructional activities and those that pertain more closely to the physical or material school plant. For instance,

the professional group does not agree unanimously as to where the responsibility for initial action or for executive action should be placed in the exercise of the various questions concerning buildings and grounds nor for the appointment of business manager, secretary to the board, and janitors. To this group of functions the lay group would add the appointment of clerks and the transfer and dismissal of business manager, secretary, janitor and clerks, the taking of the census and the preparing of the budget. But in the appointment, transfer and dismissal of members of the instructional staff and in the various functions pertaining to the selection of textbooks and of instructional material, the lay group would make the superintendent responsible for executive action.

The consensus of each group as to the advisability of legalizing teacher participation, was confined in the main, to strictly instructional functions, such as the questions dealing with the curriculum, the selection of textbooks and supplies and the making of rules and regulations in regard to procedure and new policies. In the functions just enumerated, from 60 to 80 per cent. of the professional group and 40 to 46 per cent. of the lay group favored teacher participation. The only other marked vote favoring teacher participation, was for the preparation of the budget, which was favored by 28 per cent. of the professional and 8 per cent. of the lay group.

There was close agreement between the two groups as to the placing of responsibility for official initiative in the superintendent's office in most functions, but in the execution of these functions, where the professional group seemed to be in doubt, the lay group registered a firm belief that the responsibility should rest with the board of education. The failure to distinguish the necessity for fixing responsibility for executive action was marked, and deserves further investigation.

CHAPTER VI.

PRINCIPLES OF GOVERNMENT INVOLVED IN  
THE LEGAL STATUS OF THE CITY  
SCHOOL SUPERINTENDENT

Any consideration of this subject, fundamentally, must be made from the viewpoint of the public: to think of it as a discussion of the comparative rights or privileges of either board of education or of superintendent would be sheer folly and waste of time. This report is concerned with school offices and school officials only in so far as the legal conditions under which they work affect the interests of the public.

In one sense, the administration of city schools is a business proposition. More than one-third of the total annual expenditures of cities is invested in their schools. School sites, buildings, equipment, supplies, finances—all taken together make a problem, larger than the financial or business problem devolving upon any other department of the city service. The people of the city are vitally interested that they should obtain value received from every dollar expended. But the problem is more difficult than merely a business venture, where the ledger at the end of the year discloses the amount of success or failure measured in dollars and cents. The school accounting shows expenditure in terms of money; but returns from the investment are to be found only in the lives of boys and girls, and ultimately in the lives of men and women. Such returns are infinitely harder to measure; but are, also infinitely more important and vital to the public welfare than material results which can be

measured by money values. Both from the standpoint of the cost of public schools, and from the delicate and highly important nature of the work of the schools, the whole question of administration resolves itself into finding and safeguarding an organization that will secure the utmost economy and efficiency in the control of the schools. Here, as in the business field, the public will, in the long run, interpret economy to mean, not investing as little as possible, but securing the best possible returns from the investment.

The discussion of the previous chapters showed, of all the various arrangements devised for city school administration in this country, that the office of city superintendent is the most unanimously adopted. The laws of every state provide for or permit such official; and every city whose special charter was studied has its superintendent. It is fair to assume that the cumulative practice and experience of American cities for the past 100 years can be trusted; and that the office of superintendent is an accepted fact, with no substitute arrangement to be considered,—rather offering only the opportunity for improvement.

The direct relationship of the superintendent to the public he serves, however, is not so definitely established. In San Francisco he is elected by popular vote; in St. Paul, he is appointed by a commissioner whose specific responsibility for conducting school affairs is presumably neither known to himself nor to the public until after he is elected and assigned by his associates to the conduct of school affairs. The superintendents' appointment directly by a city council or commission has been tried often; but in the two cities entering into this report, has been found wanting and eliminated. Election by popular vote has been restricted by two conditions: (1) the choice of

candidates has been confined to residents of the city; (2) Inability to free the schools from the petty and oftentimes corrupt political intrigues that affect constantly, and too often demoralize, the administration of our cities. The election of a lay commissioner who in turn must appoint a professional superintendent can be defended on no ground whatsoever. It means paying two high salaries where one would do; it means the possible extreme reversal of policy at every election, and offers always the danger of the schools being under the domination of a man who knows little or nothing about the professional side of the public schools, and who uses professional advice only in so far as it serves his fancy or purpose. The almost universal practice is that the superintendent is related to the public through a board of education, such board to be responsible directly to the public, or indirectly through the city commission or mayor and council.

Theory as to the proper function of the board of education is not as firmly fixed as the universal practice of having a superintendent; but any discussion of the functions of the board leads primarily to a consideration of the exercise of those functions through its executive officers.

One theory, still extant, considers the board as employer, and the superintendent as employee. This theory is held by a considerable body of the American public, no doubt controls the actions of school officials in many cities, and is a force to be reckoned with. A more refined development of the theory, that has much to be said in its favor, and is contributing much to the development of city school administration, looks upon the school district as a corporation, the public as stockholders, the board of education as a board of directors, and the superintendent as their chief executive or general manager.

A second theory looks upon the superintendent as a state official. In practice this theory has compromised itself with the first theory stated above; and has not in any place succeeded in gaining a thorough and unqualified trial. In late years, however, there are indications in fields closely related to city school administration that this theory is to have a considerable trial in a modified form, where the superintendent will be looked upon as an executive with large responsibility and the board of education will be primarily an advisory body.

An examination of the various phases of these two theories shows certain defects as well as merit in each. The theory of the superintendent as chief employee of the board grows out of an earlier experience of American cities, when no particular training was considered necessary for conducting the affairs of the city's schools. It loses sight of the fact that American public school education has reached a stage of development where its administration in cities requires a high type of technical skill and ability, to be obtained only through a long period of professional preparation; and that for society to secure such professional preparation and training, a fair professional reward must be given. It is a theory that appeals particularly to the type of mind that dominates ward politics, or that ignores the value of technical skill. Its merit is best considered in the later development of the theory.

Since administering the purely material or physical affairs of a school system requires much the same type of ability as administering the affairs of any business, it has been but natural for business men coming into membership of boards of education to demand that the principles of business organization be applied to school administration. Likewise, it has been just as natural that

school men, desirous of improving their work, should study and adopt methods of business organization and administration that could be applied to school affairs. So far, this development has been entirely good and has worked to the unquestionable advantage of the public schools. But there is a limit to the application of the theory. The stockholders of a corporation are, so far as their interest in the board of directors is concerned, a fairly like-minded group, their interest is altogether or largely in the money returns from their investment; and the dividends they receive furnish a comparatively simple measure, from year to year, of the capacity of their chosen officials. The school district as a corporation is a much more intricate and complicated organization. It consists of every sort of group; its stockholders are divided on religious, political, social, economic, and occupational lines; these groups are often pitted against each other, so that pleasing one group automatically alienates the support of another; moreover many of the so-called stockholders are unwilling investors and would not be satisfied with any returns; the "returns" are immediately quite intangible, and ultimately to be known in the work of a later generation. The result of these conditions has been to make the work of school superintendent a specially hazardous undertaking. Few men of real ability, considering the limited financial reward ahead, care to invest the years and money necessary to gain the teaching and other experience, and the technical and professional education needed for successfully doing the work. And under the present scheme of school organization, there is no assurance whatsoever that the men who invest in such training and education will be permitted to continue in the work for which they are specially fitted. In view of the professional aspect of public school work and the peculiar

conditions and influences playing upon the administration of the schools, the ideal of a purely business organization of school administration must undergo considerable modification to meet the needs of the schools as they exist.

The theory of the city superintendent, as an administrative officer of the state, if adopted in its entirety, would make a centralized state authority responsible for appointing the city superintendent, for supervising directly his work and, if necessary, for removing him from office. Such a theory in practice would tend to eliminate most or all of the local influence from the control of schools, and to either eliminate all public interest or to force it to find expression only through centralized state channels. As yet the channels of public thought and opinion are not clearly enough cut to readily control or shape state action for the best good of all the people; and there has not as yet, been sufficient practice or promise in state government to justify the adoption of so sweeping a program. Wherever this theory has been adopted to any extent, there has been a compromise with the theory of local control that has usually resulted in an attempt to delegate certain powers and duties to the board and other powers and duties to the superintendent. These various functions usually overlap, and are generally so vaguely defined that a resulting confusion and friction between board and superintendent inevitably follows. Dissatisfaction with the inefficiency that results from such friction has sought a remedy in an extension of the theory of a business administration that would make the superintendent a strong executive and the board of education a body with advisory powers only. Massachusetts has applied the theory to the state board of education and state commissioner of schools.<sup>1</sup> What the effect would be if

<sup>1</sup>Massachusetts Educational Legislation, 1919, pp. 17-18, Sec. 56-57.

the theory should be applied to city school administration can be only conjectured. The same powers would appoint both board and superintendent, so that the two would naturally be in sympathy with each other. The real power and responsibility would rest in the person and officer of superintendent, although board members, if tactful and in close contact with currents of public thought, could exert a strong influence toward gaining public support of school policies and in shaping the policies of the superintendent. Direct public influence would be limited to advisory expression and to pressure on the appointive power. As a means of eliminating the friction that too often exists in school administration and of centering responsibility for administrative acts, this scheme offers considerable promise, and may be given a fair trial in city school administration. Its chief defect lies in placing so little responsibility directly on the public.

There is a strong body of opinion that favors giving the public at large more power than it now has, and of educating the public to take an active part in shaping its affairs. This opinion carries with it the correlate that the public should be able to exert a direct influence on the acts of its public officials. This opinion is in harmony with the main development of theory controlling city school administration in the United States during the last 50 years and can be coordinated with the theory that the superintendent should be a strong, responsible executive. The remainder of this chapter looks toward harmonizing the details of these theories.

There is a fairly unanimous concensus of practice and opinion that boards of education should represent the city at large, that they should be small, and that a majority should continue in office through each change of membership. The first conclusion is an expression of the ob-

vious principle that the schools must be administered as a whole and not in the interest of any particular geographical section. When representation on the board of education of small geographical units is altogether eliminated, and the chief function of the board of education is to secure efficiency in the management of the schools, then the tendency is unquestionably toward small boards. With very few exceptions, the board of more than nine members has practically disappeared; and the board of five members is most commonly found in state laws and city charters.

Historically, this tendency toward smaller boards has been accompanied by reduction of the number and gradual elimination of committees. The committee system was primarily a means on the part of boards for dividing their executive duties; and was a necessary arrangement so long as the board appointed weak executives or none at all. Where a strong executive or superintendent is employed, the executive phases of all functions should be assigned to him and his subordinate officers. It then becomes the duty of the board, sitting as a whole, to advise and to act on whatever matters come before them.

Whether board members should be elected by popular vote or be appointed by a mayor, mayor and council, or commission is a question that will ultimately require a definite answer. The laws of 37 states and the majority of special city charters studied in this report require the election of board members by popular vote. This tendency is in entire harmony with the theory that would make school administration responsive to public initiative and control.

In late years the tendency has been toward longer terms for board members with the superintendent em-

ployed for the same term. Two forces operate here. Efficiency of service requires a long term of service. Popular control, in its present state of development, requires that the public have opportunity to change its officials, if it so desires, at not too great intervals. In city and state laws where the superintendent is looked upon as a strong executive, the term is usually four years. For a board of five members a term of five years would be appropriate; under such conditions the superintendent should be appointed for a term of not less than three (3) nor more than five (5) years. Such provision would insure the superintendent and board a long enough term to inaugurate and prove the worth of their policies; and would, at the same time, allow the public to change the administrative policies of its schools, when necessary, through gradual changes in the board.

It is generally conceded, however, that the public interest will be better served if their school officials serve a longer period than three to five years. The law should give this opinion a traditional force. This could be done by providing that the superintendent's reappointment should be automatic, unless either the board or the superintendent notified the other on or before six months preceding the date of expiration of the superintendent's term of office that it was said party's intention to terminate the relationship on that date.

#### RELATIONSHIP OF BOARD AND SUPERINTENDENT TO OTHER MUNICIPAL OFFICES

The discussion in Chapter 2 of this monograph showed that, in the beginning of the last century, responsibility for city school administration had been placed largely on local municipal officials, that the tendency since then has been steadily toward lessening control of such officials over schools and making the board of education respon-

sible directly to the people. This development has been in complete harmony with the development of a responsible administrative control of public schools.

The control of the school financial affairs by a city council, and the instructional affairs by a board of education, is a dual control that leads to unrest, friction and inefficiency. The board is held responsible for providing good instructional facilities; the council is held responsible for keeping the tax rate low. Even when both authorities are trying to serve the public's best interests they are handicapped because each group is subject to different influences and different bodies of public sentiment. It is generally true that the authority which controls the school finances, ultimately determines the quality of instructional service. Only when boards of education were considered primarily as executive and supervisory officials was there any reasonable excuse for making them directly responsible to the financial control of city municipal authorities. As executive and supervisory authority is legally more and more vested in professionally trained executives, veto and approval powers over school financial policies must pass more and more under the control of the board of education, or the latter's possibility of service to the schools will be entirely eliminated. Where boards of education are elected by popular vote, they should be directly responsible to the public, and not to the council or other municipal authority. Where they are appointed by mayor or mayor and council, they should still have full control of all financial affairs within certain limitations. These limitations should be: (a) broad enough to provide for all minimum essentials required by the state; and (b) capable of being extended for fixed purposes and periods by the approval of the same municipal authority that is

responsible for appointing the membership of the board. Such an arrangement would relieve school authorities from the necessity of year after year fighting for the essentials that the school must have or to save programs that are definitely established and accepted; on the other hand, it eliminates the danger of an extravagant board's levying a tax that would seriously handicap the city administration, and confines argument concerning school expenses to the questions of new extensions or to the retention of services which have had time to prove their worth or defects.

#### RELATIONSHIP OF BOARD AND SUPERINTENDENT TO THE PUBLIC

Too much legislation in America has been directed through fear of public officials rather than toward helping such officials give a maximum service to the public. We need legislation that will create a tradition of confidence in public servants and at the same time protect such confidence from exploitation. Such traditional faith in public servants can be built up only through a scheme of complete publicity that will remove all doubts on the part of the public, and all temptation toward questionable or secretive dealings on the part of officials. The ideal will be difficult to attain; but certain legal provisions will tend to build up such public confidence.

(1) All board meetings should be open to the public—all regular meetings should be held at a place and time known generally to the public. Special meetings should be limited to specific purposes stated clearly in the announcement of meeting—such announcement to be published or posted in public places at least 24 hours before such meeting. Limitations on such meetings should provide for temporary solutions by executive officials that would hold only till the next regular meetings. It is

doubtful, in the majority of instances, whether "executive sessions" of the board are of real value.

(2) All official proceedings of the board should be published.

(3) Minutes of the board should be kept in the superintendent's office and should be open during office hours to the public. This provision should require that all questions passed upon by the board be presented in writing; and that the vote of each member be recorded.

(4) The superintendent should be required to report, subject to the board's approval, annually or oftener, as to the

- (a) Condition and needs of the school.
- (b) Progress of the school.
- (c) Proposed policies or programs.
- (d) Achievement of programs previously proposed.

(5) Financial reports, and proposed budgets in detail should be published on or before a certain specified date, and hearings held at which any citizen might speak, or be informed concerning any item of the proposed budget.

(a) When the board is elected by popular vote, any proposed expenditure requiring tax rate beyond fixed limits, should be submitted to public vote for approval.

(6) Removal. Where elected by public vote, board members should be subject to removal through the "recall."

(7) A petition signed by 10 per cent. of the registered voters of the city should be sufficient to cause board and superintendent to take action on any proposal submitted to them through such petition.

RELATIONSHIP OF BOARD AND SUPERINTENDENT TO EXECUTIVE AND SUPERVISORY OFFICERS, TEACHERS,  
AND OTHER EMPLOYEES

There is no argument except tradition for a dual executive authority over the schools. Such dual authority is due to the fact that municipal authorities gave over last of all to the board of education control of material aspects of the schools, and in turn, board members have maintained their hold on these school affairs long after they realized that they could not perform the duties devolving from instructional affairs. When cities grew too large for board members longer to attend to the executive duties, it was but natural that they should delegate the work they looked upon as specially theirs to a designated official directly responsible to the board itself. Another factor contributing to such a development, no doubt, was the fact that superintendents received no training for the purely business affairs of the school other than what they learned from actual experience. This being the case, board members usually had quite as broad and oftentimes a broader experience than the superintendent, with the result that they discounted his ability successfully to direct the purely business affairs of the schools. These conditions, however, are giving way to a new order.

The purely business affairs of school administration affect directly the instructional activities of the school. The quality of supplies, every detail of the school building, the character of soil, size and form of the school site, the character and quality of clerical help employed, the efficiency of janitor work—in fact every detail of the varied and intricate administration of the physical school plant affects directly or indirectly the quality of classroom instruction. Educational leaders, cognizant of these facts, have developed graduate courses in univer-

sities for training superintendents and others for the administration of these purely physical aspects of the school plant. Such courses go into every aspect of school finances, buildings, equipment and supplies, forming of the budget, and preparing plans for new construction. The result of this development is that the superintendent can now obtain technical training in every phase of school administration, and ultimately the public will choose men who have the technical training in addition to the practical experience.

Since the business affairs of the school are intimately a part of the instructional affairs, since the training of school superintendents includes both business and instructional technique, the desirability of having all executive authority centered in one officer is apparent. The officer now known in some states as business manager, should be made an assistant superintendent in charge of business affairs. The office heretofore known as secretary to the board of education should be abolished and the duties of said office be transferred to the office of secretary to the superintendent. The superintendent and the board constitute one body or authority; their powers are not dual but unified; therefore their secretarial duties should be unified and under one head. The only reason for existence of a secretarial force is directly or indirectly to promote the instructional work of the school; directing such secretarial force is primarily an executive function, therefore the chief secretary of the schools should be considered an executive officer, responsible directly to the superintendent of schools and through him to the board of education. The work of all executive and supervisory officers of the school should be coordinated and under the direction and supervision of the superintendent. Through him, should pass all communications between the board

on the one hand and school officers, teachers, and employees on the other.

Such centralization of authority, however, does not mean creating the possibility of an autocratic, tyrannical school administration. The powers and duties of each office or type of position should be defined in outline by law; and in detail by rules and regulations of the board, (changing such rules should be possible only under carefully specified conditions).

The superintendent should have a council composed of members representing executive and supervisory officers, teachers, and other employees. These representatives should be in close contact with every member of the school group. Its power should be advisory only; but every question of policy formulated by the superintendent should be the result of conference with his council. The minutes of the meetings should be recorded; and its minority reports should be filed and should go to the board with the majority report if the minority so desired.

Tenure ought to be secured without the alternate danger of fixing incompetent people in important positions. After a probational term, reappointment should be automatic. Notice of non-appointment should be subject to the demand for a hearing based on written charges. The term for all executive officers should be for the same period as superintendent and board members.

#### RELATIONSHIP OF BOARD AND SUPERINTENDENT TO EACH OTHER—THEIR POWERS AND DUTIES

I. APPOINTIVE. In late years, school law has recognized the necessity for making the superintendent responsible for finding and recommending suitable teachers to the board. This means that no candidate for a teaching position can be considered by the board unless first nominated by the superintendent. The board's power is con-

fined to approval or rejection of the superintendent's recommendation. This plan has certain advantages over the older law that placed the appointive power directly in the board of education. (1) It relieves board members from the necessity of having to consider many applications of persons totally unfit for teaching positions. (2) It insures the public that the one person most directly responsible and, all things considered, the best fitted, namely, the superintendent, shall pass favorably upon every candidate before there is any possibility of that candidate's being appointed. (3) The superintendent knowing that he, and not the board, must assume responsibility for any failure on the part of teachers will naturally exercise greater care than if he could shift the blame to the board of education.

When it is admitted that the superintendent can and should be held responsible for the direction and supervision of all activities pertaining to the schools, then it is necessary that his appointive powers be extended to include all workers in the school system.

Obviously, he cannot secure most efficient service unless his control affects the original appointments, transfers, dismissals and promotions. The application of this principle includes in addition to principals, supervisors and teachers, the appointment of all officers and employees concerned with the physical school plant; attendance, health, recreational, social and clerical workers.

The question arises as to whether the same relationship in appointive powers should hold between the board and superintendent for all grades of positions.

Three main grades of positions have developed in the law: (1) executive and supervisory, (2) teachers' and positions of equivalent grade, (3) other employees. The first includes assistant superintendents, business manager,

secretary, chief engineer, principals, heads of medical inspection, nursing, recreation, attendance, etc. Positions equivalent in grade to teachers include all positions requiring equivalent experience and training. All remaining positions are classified under "other employees."

The first responsibility for administration of any policy or program recommended by the superintendent and adopted by the board, rests with executive and supervisory officials: these should be most responsive to need of change of policy as dictated by public opinion expressed at the polls or through appointment to the board of education. For this group of appointments, responsibility should rest on the board and superintendent. *The superintendent should nominate, and after the board's approval of such nomination should appoint.* The same rule or procedure should apply to the appointment of teachers with this exception—*boards should be permitted to delegate the full power of appointment of teachers to the superintendent, subject only to his reporting all such appointments to the board at its next regular meeting.* All other employees should be appointed by the superintendent and a full report of such appointments made to the board at its next regular meeting. Civil service rules should apply to this class of employees; where civil service does not apply, the superintendent should prepare rules concerning all phases of the appointive powers; such rules should be approved by the board of education and by the state centralized educational authority.

**Transfer**—The power to transfer officers, teachers, and other employees, to positions of the same grade, rank and salary should rest solely with the superintendent.

Transfers to positions of different rank, grade or salary should be subject to the same requirements as those governing original appointments or to the rules and regulations of the civil service.

*Promotion*—Should be controlled by the rules governing original appointments.

*Suspension*—Should rest with the superintendent on his own motion or in approval of motion made by responsible subordinate officer.

*Dismissal*—For officers and teachers, final power of dismissal should rest with the board. All charges should come before the board through the superintendent and in writing. Such charges should be made by the superintendent on his own motion; or, if made as an appeal from the superintendent's decision, they should be accompanied by a brief setting forth his reasons for such decision. A copy of said charges and notice of leaving should be presented to the party concerned; said party should decide whether or not each party should have counsel at such hearing. If the board sustains the superintendent's recommendations, the decision should be final. If the board does not sustain the superintendent's recommendation, said party should have the right to appeal to the state commissioner of education whose decision should be final. Dismissal of "other employees" should be subject to rules and regulations of the civil service; or such substitute rules as are suggested above under rules for appointment.

All appointive powers of the superintendent should be exercised by and with the advice and consultation of subordinate executive officers responsible for the immediate direction and supervision of such teachers, workers or employees.

(2) **BUDGETARY POWERS.** This power affects the efficiency of every single phase of the school activity.

An older theory assumed that direct representatives of the people should control the purse strings; and that executive officers should make the best of whatever amounts

might be allotted to them. Certain conditions and factors have tended to counteract this older theory. (1) Board of education members when approaching the budget problems are under many and different forms of pressure, so that they are not always able to give unbiased thought and judgment to the many problems involved. (2) City schools are so expensive and their work so far-reaching, that any party responsible for preparing the school budget, needs the most accurate and technical information possible to attain. (3) The state now requires certain minimum essentials for each city school system and needs one official on the grounds technically equipped to safeguard the state's interest. (4) Cities have found that short-sighted and bungled budgetary or financial programs have proved most costly in the end, and are disposed to obtain the best advice and fullest publicity for the same.

The superintendent should be responsible for preparation of the budget. As expert and professional advisor of the board the superintendent is in position to collect and obtain the facts which the board needs for exercising their best judgment. Likewise he is best fitted to know and to plan for meeting the requirements of the state. The advice and cooperation of all groups of workers should be utilized by the superintendent in developing his budgetary program. Such advice and cooperation should be obtained through the superintendent's council. Minority reports of this council should be available for the consideration of the board.

The budget prepared by the superintendent should itemize the appropriation required for each service, and compare the same with the appropriation and expenditure for the two preceding years, and for any other years that might be deemed advisable. It should also give reasons

for increase or decrease, or for inclusion or exclusion of any item as compared with the two previous budgets.

(1) Such information gives the board a sound basis for exercising their judgment.

(2) It compels the superintendent and his associates to think ahead, plan far-reaching programs, and to check scientifically the results of each school program undertaken.

(3) It is the basis for full publicity, and when published keeps the public informed, interested and in sympathy with the varied school program.

When the budget as presented by the superintendent is not approved, the advice and objections of the board should be reduced to writing; and the budget should be revised by the superintendent with the advice and cooperation of his associates. While the necessity for final decision rests on the direct representatives of the people, the above provision reduces the probability of hasty action, and gives all parties concerned the advantage of having the best thought and advice of those directly responsible for the administration of the budget.

(3) COMPULSORY EDUCATION. Responsibility for enforcement should rest entirely on the superintendent. The board of education should be responsible for appointing such officials and employees as will enable the superintendent to perform his duties. Enforcement of compulsory education is strictly an executive function. Success of administration depends upon promptness. School law generally has designated the superintendent as the local agent who should exercise this power.

Continuation school programs and child labor legislation make it all the more necessary that the local administration of school attendance should be centered in responsible offices and subject only to the appellate juris-

diction of state centralized educational authority or administrative courts. The state is directly responsible for the education of all children and for the eradication of illiteracy. State officials obviously cannot cover effectively and efficiently every district of the state without enormous expense. Consolidation of enforcement of all phases of school attendance in local offices means economy and efficiency in execution.

The basis of all compulsory attendance enforcement should be a continuous school census. Either the superintendent should be given assistance needed to keep such a census in connection with the school attendance bureaus, or the law should require police departments and health bureaus to obtain and supply such information to the office of city school superintendent.

(4) DIRECTION AND SUPERVISION. Responsibility for direction and supervision should be lodged in the superintendent of schools and his associate executive and supervisory officers—their action subject to the approval of the board. To place, legally, the responsibility for direction and supervision of any school activity in the board of education, implies giving the board an executive function, for which it is neither fitted or prepared, nor capable of exercising.

The superintendent and his associate executive and supervisory officers should keep the board fully informed and advised as to policies, programs, needs, conditions, and progress of their various activities; and should at regular board meetings, give through the superintendent, such additional information as the board might request. Such full reports give the board members a more intelligent background for judging the directive and supervisory work of their appointed officials than they could gain from occasional visits. Further, such reports give the

board opportunity to advise as to continuance, or redirection of policy, and to give directly expression to such public opinion as they may be in contact with. In extreme cases, this provision would give the board a veto power over such directive and supervisory activity as it might consider questionable from the standpoint of the best interests of the school.

(5) RULES AND REGULATIONS—NEW POLICIES—Decision as to rules and regulations concerning details of school procedure should rest with the superintendent, advised by his executive council, in so far as such decisions concern primarily executive phases of policies already adopted. New policies or change of policy should come about in either of two ways: (1) The superintendent acting with the advice of his council should recommend in writing such change of policy to the board of education; with the approval of the board such policy should become a part of the school procedure. (2) The board should have the privilege of proposing new policies. Such proposal should be submitted to the superintendent who, with the advice of his council, should report in writing to the board at its next regular meeting his recommendations concerning such proposal. After due consideration, final decision should rest with the board.

Such a provision safeguards the public in three ways: (1) It looks to the superintendent, the best professional authority of the city, for the formulation of all school policies. (2) It gives the representatives of the people power to formulate and enforce new policies in conformity with public opinion, in case the superintendent should seem to stand in the way of progress. (3) It reduces the possibility of haste and lack of thought in grafting new policies on to the school system and requires that the proposal shall pass under the scrutiny and

stand the recorded judgment of those responsible for administering it.

#### RELATIONSHIP OF CITY DISTRICT TO THE COUNTY

The county superintendent and city superintendent should be, in the law, officials of equivalent grade and responsibility. In the older law, before cities were consolidated and city superintendents considered strong executives, the county superintendent was considered a state official responsible for administration of state law in a limited section of the state. His chief function was the administration of state funds. His other functions, applicable to cities, have largely been given over to the city superintendent. Distribution of state funds for cities should be made directly to cities through the city superintendent or treasurer of city schools.

#### RELATIONSHIP OF STATE TO CITY SCHOOL ADMINISTRATION

*Superintendent.* The state board of education should approve rules and regulations for determining the qualifications and qualities necessary for certification and endorsement of superintendents for different grades of superintendencies. The state is definitely interested to know that the schools of each city shall be administered as well as they can be. The people of each city want to know that the qualifications of the man or woman who shall head their school system has been adjudged satisfactory by an authority competent for such responsibility. The state commissioner should have the power of veto or approval of all appointments of superintendents made by boards of education.

The state is responsible for the education of the children of the state. There must be an agent in each district of the state responsible in some measure to state authority. Historically and logically, the superintendent meets the requirement. Yet, the provision still leaves the

local representatives responsible for selection and initial approval of the appointee.

*Approval of local initiative.* The state educational department should have power of approval over: school sites, plans for new construction, curricula, and new development of school activity.

Such procedure provides: (1) that local initiative is safeguarded and that each city has opportunity to develop along lines that are best suited to its own peculiar conditions; (2) that the people of each city are assured that in the development of all fundamentally essential school programs, their local officials will have the advice and counsel, and if necessary the check, of a more responsible educational authority.

*Certification of Teachers.* The state should have power to certificate all teachers; and such certificate should be valid in any school district of the state. The city superintendent should have the privilege of adding an oral examination as a further means of selection.

(1) The state is interested, first, to assure itself that each teacher of the state meets all requirements set by the state. (2) To make teaching a profession, to insure that capable men and women enter and remain in the profession, it is necessary that teachers be relieved from the petty annoyances of taking varied and oftentimes unreliable sorts of examinations. The oral examination, amounting to a systematized form of interview, permits local authorities to select from a list of applicants according to their special needs.

The state centralized educational authority should have appellate jurisdiction over all legal questions provision for whose settlement is not definitely placed on local officials.

Many disputes that now disrupt local administrative

organizations could be settled happily, if legal procedure required the participants to place their case before an authority capable of making a wise decision. Decision in such cases becomes a question of administrative law, so that a judge versed thoroughly in school law and its administration should prove a better adjudicator of such questions than the general courts.

The state commissioner or superintendent should have power to remove local officials after a hearing; and should have power to withhold state funds where fault is due to public negligence. If the state is responsible for compelling cities, if need be, to maintain certain specified minimum standards, then the state authority must needs have some means of enforcing such requirements.

The removal of officials who are incompetent, wilfully negligent, or who refuse to enforce the law, is one means that should rest with the state commissioner. Where the public opinion of a community forces its representatives to adopt a school program that does not meet the minimum requirements set by the state for cities of that class, the state commissioner should be empowered to withhold funds and to compel the levying of a local tax that would meet the requirements of the school.

#### CONCLUSION

"Public law is the body of rules inherently necessary to the organization and management of certain services. Statute....is the organic rule of a service or body of men. An administrative act is always an act made in view of the rule of service..... Social evolution is of infinite complexity and indefinite duration: law is no more than its protective armament. The generation that went before believed that its system of law.....was definite and final. Let us not commit a like mistake. Our own system.....represents but a moment of history; and before it has been finally builded the keen observer will

note its transmutation into a newer code. The generation that is to come will be happy in so far as it is able in better fashion than ourselves, to achieve freedom from its dogmas and prejudices."—Duguit, *Law in the Modern State.*\*

In America, the various states are responsible for education within their borders. The laws of a state determine in a large measure, the machinery, the responsibility and the limitations of school administration in its cities. The study of the development of school law in Connecticut and Ohio and the review of the late school laws of the 48 states reveals the fact that much of the present school law is the result of experience in days gone by and does not meet the needs of our modern cities. The entire discussion of this study has aimed solely at the public welfare, at the formulation of an organic rule of service that will tend to mould public opinion and enable school administrators to perform their administrative acts always and only in view of the rule of service.

A review of the facts set forth shows that:—

- a. Responsibility for local administration of schools was first vested in municipal or civil officers who had been chosen primarily for the performance of other duties.
- b. Gradually, as schools developed, responsibility for direction and supervision of instructional activities was vested in officials whose sole public responsibility was limited to the schools.
- c. These lay boards were given power to delegate their responsibility to small committees or to a committee of *one*.
- d. This *one* official developed into the professionally trained executive known in every state as the city school superintendent.

\*Translation by Laski.

e. As society adds more and more responsibility to the public school system, the need of better trained and more responsible administrative leadership of schools is recognized.

f. This responsible leadership should extend to all phases of school activity; all dual responsibility should be eliminated.

g. The laws governing school administration should be formulated to build up this responsible leadership and so safeguard the public interest.

It, then, behooves all interested in public education, both laymen and professionally trained school men and women to lead public thought in regard to schools, out of the thought channels cut by the necessities of the log school house and the exigencies of ward politics into the formulation of a new set of rules whereby every school administrative act shall be judged solely by the service it renders the public. These new rules of service formulated—they should receive the sanction and protective armament of the public law. The service rendered by the schools of tomorrow will be directly proportional to the ability of the schools of today to achieve freedom from the limitations and prejudices bequeathed from the schools of yesterday.

## BRIEF OF A PROPOSED LEGAL STATUS FOR THE CITY SCHOOL SUPERINTENDENT

### A. CONTROL OF SCHOOLS

Responsibility for local control and administration of city schools should be vested in a superintendent and board of education.

### B. THE BOARD OF EDUCATION

Membership. The board should consist of five members, chosen from the city at large.

Term. Their term should be five years, one member being elected or appointed each year.

Removal. Board members should be subject to removal, under specified conditions by:

- a. The "recall" when elected by popular vote.
- b. The mayor when appointed by him.
- c. The state commissioner of education upon wilful and intended violation of the law or rulings of the state board of education.

Organization. The board should have a president and vice-president elected from its membership; there should be *no* standing committees; all business transacted should be by the board as a whole.

General powers and duties. The veto and approval of administrative acts and policies should be vested in the board of education.

### C. THE SUPERINTENDENT

Qualifications. The superintendent should have had experience as teacher and principal or supervisor under a county or city superintendent; should be a graduate of a four-year approved college and have had at least one year of graduate training,—such work to have consisted of

courses in school administration, supervision and kindred educational courses.

Appointment. He should be appointed by the board of education subject to the approval of the state commissioner of education.

Term. His term should be for not less than three nor more than five years.<sup>1</sup>

Tenure. After his second appointment to the same position, the superintendent's reappointment should be automatic unless either the board or superintendent should serve notice to the other at least six months preceding the date of the close of contracted term that said party proposed to terminate such relationship.

Powers and duties—general. The initiatory and executive phases of all administrative functions should be vested in the superintendent and his subordinate executive officers. The superintendent should have power under rules and regulations approved by the board to delegate any of his powers and duties to his associate or subordinate executive and supervisory officers.

#### D. POWERS AND DUTIES OF THE BOARD AND SUPERINTENDENT

Appointment.—Executive and Supervisory Officers. The superintendent should nominate to the board, and when the board approved, should appoint, or should appoint subject to the board's approval:

Teachers, and other workers of equivalent training—The above provision should hold with two exceptions: (1) the board of education should have the legal right to delegate the power of appointment to the superintendent, subject only to his reporting such appointments to the

<sup>1</sup>Board members are elected for five years. The superintendent's term should not be longer than that of a board member. Three years is the time required to change the majority of the board membership.

board at its regular meetings; (2) in nominating or appointing, the superintendent should first consult and advise with the principal or other executive officers chiefly responsible for directing the work of such appointee.

Other employees. Should be appointed by the superintendent, either on his own motion, or in approval of recommendations made by responsible subordinate executives,—such appointments to be reported to the board at its next regular meeting.

Transfers. In all positions of the same grade or rank—to be made by the superintendent;—transfers to positions of different grade or rank to be subject to the rules governing original appointments.

Promotion. To higher positions under same rules as for original appointment. To higher salary schedules, under such rules controlling salary schedule and budget as had been adopted by the board upon the written recommendations of the superintendent.

Dismissal. For officers and teachers power of dismissal should be vested in the board. All charges should come before the board through the superintendent and in writing, accompanied by the latter's recommendations. In case of disagreement between board and superintendent, the final power of decision should rest with the state commissioner of education.

Budget. The superintendent, with the advice and assistance of his subordinate, should be responsible for preparing the budget, submitting it to the board for approval, and for formulating any revisions that the board might find necessary.

Buildings and Grounds. Purchase and sale of buildings and grounds should be negotiated by the superintendent in person or through his assistant superintendent

in charge of business affairs, subject to the advice and approval of the board.

Maintenance repairs should be made under the direction of the superintendent or his assistant superintendent in charge of business affairs.

Repairs requiring capital outlay should be made upon the written recommendations of the superintendent subject to the approval of the board.

The superintendent should be responsible for having drawn up under his direction all plans for new construction, such plans to be subject to the approval of the board and of the state commissioner of education.

The superintendent either in his own person or through his assistant superintendent in charge of business affairs should be responsible for supervision of new construction.

Attendance. The superintendent should be responsible for directing a continuous census, and for enforcing the compulsory attendance and child labor laws; the board of education should be responsible for providing such help and assistance as is needed for carrying on these duties.

Rules and regulations governing routine matters should be determined by the superintendent by and with the advice and assistance of his associates.

New policies involving capital outlay or radical change of school procedure should be prepared by the superintendent with the advice and assistance of his associates, subject to the approval of the board of education.

Curricula. The various curricula including the subjects to be taught in each, the time to be allotted, and the credit to be given, should be determined by the superintendent with the advice of his associates, subject to the advice and approval of the board of education and the approval of the state commissioner of education.

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The content of each subject should be determined by teachers and supervisory officers subject to the approval of the superintendent.

Textbooks and Supplies. Textbooks and instructional supplies should be chosen by the superintendent with the advice and assistance of teachers and supervisory officers.

All other supplies should be chosen by the assistant superintendent in charge of business affairs, with the advice and assistance of his subordinates, and subject to the approval of the superintendent.

Direction and supervision. Subject to rules and regulations prepared and submitted by the superintendent and approved by the board, the superintendent should be responsible in person or through his assistant executive and supervisory officers for the direction and supervision of:

- a. Health work in the schools.
- b. Civic center or recreational and social activities.
- c. Evening and continuation schools.
- d. Classroom instruction.
- e. Research work.

### E. RELATION OF BOARD AND SUPERINTENDENT TO EXECUTIVE AND SUPERVISORY OFFICERS, TEACHERS AND OTHER SCHOOL EMPLOYEES

Unified executive control. Executive control of all school affairs, e. g., secretarial, business, health, recreational, research and instructional activities, should be vested in the superintendent. *There should be no dual executive authority.*

- The superintendent's Council. The council should consist of such representatives from supervisory, teaching and other employee groups, as might be determined by those groups with the approval of the superintendent and board of education. The members of the council, not

ex-officio, should be selected from the respective groups by the majority vote of those groups.

The superintendent should advise with this council in determining all questions of policy, but the action of the council should be advisory only, and in no way compulsory as to the superintendent's decision.

The minutes of the meetings of the council should be recorded and should be open to all school officers, teachers, other employees, and board of education.

Concerning questions going before the board of education both the majority and minority recommendations of the council should go to the board, when such majority or minority so desire.

#### F. RELATIONSHIP OF BOARD AND SUPERINTENDENT TO OTHER MUNICIPAL OFFICERS

Within reasonable tax limits fixed by legislative enactment, the board of education and superintendent should have complete control of the school budget and fixing of the tax rate.

New building programs or extensions of school service requiring a tax rate in excess of the limits fixed by law should be subject to the approval of the mayor or commission only in those cities where the board of education is appointed by said mayor or commission.

#### G. RELATION OF BOARD AND SUPERINTENDENT TO THE PUBLIC

All board meetings, regular or special, should be open to the public. Minutes of the board should be kept on file in the superintendent's office and open to the public.

All official proceedings of the board should be published.

Where the board of education is elected by popular vote the board and superintendent should have full responsibility for the budget within limits fixed by statute. Amounts in excess of these limits required for extensions

of school plant of service should be subject to the approval of the public at a regular or special election.

The proposed budget, each year, should be printed and distributed to all voters and taxpayers, and a public hearing should be held by the superintendent and board.

Reports. The superintendent and board should keep the public thoroughly informed as to the policies of the school, its conditions, needs and progress.

Petitions. A petition signed by ten (10) per cent. of the legal voters of the city should be sufficient to require the superintendent and the board to take action on the subject of the petition.

## H. RELATIONSHIP OF BOARD AND SUPERINTENDENT TO CENTRALIZED STATE EDUCATIONAL AUTHORITY

It should be the duty of superintendent and board to enforce the state school laws and the rules and regulations of state educational authorities which have the force of law.

The state authority should have the right to prescribe minimum essentials for the state at large or for cities or schools of the same class or type: but in every case the centralized state authority should encourage local initiative, and should exercise its power primarily through veto or approval of local plans.

The board and superintendent should have complete control of the city schools subject to the state laws, and rulings of the state commissioner and board of education having the force of law.

## APPENDIX

### CODE SHOWING LEGAL RESPONSIBILITY FOR THE EXERCISE OF THE FUNCTIONS OF CITY SCHOOL ADMINISTRATION

(As stated in the laws of the 48 states of the Union).

**See Charts A and B in pocket in back of book.**

1. The exercise of the function is delegated solely to the board of education.
2. Initiative is permitted to or required of the superintendent; but the board of education is free to act independently of his advice.
3. Initiative is required of the superintendent; the board of education can act only on the superintendent's recommendation.
4. The exercise of the function is delegated solely to the superintendent.  
**1p, 2p, 3p, or 4p**—Provision 1, 2, 3, or 4 above, subject to the approval of the people.  
**1m, 2m, 3m, or 4m**—Provision 1, 2, 3, or 4 above, subject to the approval of some phase of the municipal government.  
**1c, 2c, 3c, or 4c**—Provision 1, 2, 3, or 4 above, subject to the approval of county authorities.  
**1s, 2s, 3s, or 4s**—Provision 1, 2, 3, or 4 above, subject to the approval of the state authorities.  
**1t, 2t, 3t, or 4t**—Provision 1, 2, 3, or 4 above, but also providing for participation by teachers in the exercise of the function.
- C. The exercise of the function is delegated solely to the county authorities.
- S. The exercise of the function is delegated solely to state authorities.
- T. The exercise of the function is delegated solely to the teachers.
- P. Initiative is granted to the public.

## CODE FOR TABULATING FORM NO. I

**See Tables C and D in pocket in back of book.**

- o. Blank. No answer.
- \*1. Supt. is solely responsible; board of education has no responsibility.
- 2. Supt. initiates, executes, subject to board's approval *after* execution.
- 3. Supt. initiates, executes, subject to board's approval *before* execution.
- 4. Supt. initiates and approves; board executes.
- 5. Supt. initiates; board executes, or approves and executes.
- 6. Supt. initiates; board approves *before* execution—no provision for execution.
- 7. Supt. initiates; board approves *after* execution—no provision for execution.
- 8. Supt. executes; board approves *before* execution—no provision for initiation.
- 9. Supt. executes; board approves *after* execution—no provision for initiation.
- 10. Supt. initiates—no provision for approval or execution.
- \*11. Board is solely responsible; supt. has no responsibility.
- 12. Board initiates and approves; supt. executes.
- 13. Board initiates and executes; supt. approves.
- 14. Board initiates; supt. approves and executes.

\*Includes those cases where only mark after a function was placed in "execute" column.

N. B.—When both columns for approval by board were checked, credit was given for "approval before execution" only.

15. Board initiates; supt. approves—no provision for execution.
16. Board executes; supt. approves—no provision for initiation.
17. Board initiates—no provision for execution or approval.
18. Teachers initiate; supt. approves or approves and executes; board has no responsibility.
19. Teachers initiate; supt. and board approve; supt. executes (or execution blank).
20. Board and supt. initiate; supt. approves; board executes.
21. Board and supt. initiate; board approves; supt. executes.
22. Board and supt. initiate; board executes—no provision for approval.
23. Board and supt. initiate: supt. executes—no provision for approval.
24. Board and supt. approve—no provision for initiation or execution.
25. Miscellaneous.
  - a—Teachers may initiate.
  - b—Teachers may participate.
  - ab—Teachers may initiate and participate.

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Arizona 1919	Nevada 1919
Arkansas 1914	New Hampshire 1919
California 1915	New Jersey 1918
Colorado 1917	New Mexico 1915
Connecticut 1916	New York 1918
Delaware 1919	North Carolina 1917
Florida 1915	North Dakota 1915
Georgia 1919	Ohio 1915
Idaho 1917	Oklahoma 1919
Illinois 1919	Oregon 1919
Indiana 1917	Pennsylvania 1919
Iowa 1919	Rhode Island 1918
Kansas 1917	South Carolina 1918
Kentucky 1918	South Dakota 1918
Louisiana 1916	Tennessee 1917
Maine 1917	Texas 1917
Maryland 1918	Utah 1919
Massachusetts 1919	Vermont 1918
Michigan 1917	Virginia 1915
Minnesota 1915	Washington 1917
Mississippi 1918	West Virginia 1919
Missouri 1917	Wisconsin 1919
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